

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 13, 2000

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday July 13, 2000 at 12:30 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; James Barfield; Chris Carraher; Bud Hentzen; Bill Johnson (late arrival); Richard Lopez; John W. McKay, Jr.; Jerry Michaelis; Susan Osborne-Howes (late arrival); George Platt; Ray Warren, and Harold Warner. Ron Marnell was not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner, Stephen Banks, Senior Planner; Barry Carroll, Associate Planner, and Karen Wolf, Recording Secretary.

1. Presentation on Development Trends

Stephen Banks, Senior Planner, Land Use Division, presented information from the Highlights section of the 2000 Development Trends report. He compared the 1999 development activity with 1998, and gave additional information from the report and other comments to explain some of the factors affecting development activity.

Mr. Banks explained some of the additions to this years report having to do with institutional construction activity and analysis of all commercial construction by different geographical makeup's of the county. He then talked about current efforts to bring the last five years of Development Trends data into the Geographic Information System to be used as a Comprehensive Plan monitoring tool.

Mr. Banks answered questions from Commissioners and noted the Commissioners comments about improvements to one of the maps and a table that would be helpful.

Osborne-Howes arrived at 12:50 p.m.

Johnson arrived at 12:52 p.m.

2. Public agenda: Request to amend Zoning Code to add provisions for "containers" and increase the allowable area for outside storage in "LC" Limited Commercial District.

BOB KAPLAN "Commissioners, I have given you a hand-out, and all I want to do, for a couple minutes, is just 'have coffee with you', if you will, and just chat a minute or two about an issue. This is not an adversarial situation at all. I am presently representing Budget Box. Mr. Bill Helbrook is here from Budget Box and they are picking up the tab for my time today. But there are a lot, a lot of people in the community, particularly retailers, who are interested in the subject.

Mrs. Frost, the lady in the front row who just walked in, is a ShopKo Manager. She tells me, and I do not represent ShopKo or Mrs. Frost, but she told me that she had storage containers, and on two occasions she has lost her storage containers because of violations of current outside storage ordinances. There are just a lot of people interested in the subject.

What I did, at Marvin's invitation, I did attend Development Review and we also had coffee there and talked about it. I have given you a handout and I am not going to repeat anything in the handout. You can all read as well as I can. The first page of the handout is nothing more than just a transcript, ladies and gentlemen, of the statements I made at Development Review. I just simply reduced them to writing, and there is no need for me to repeat them. The second page of the handout is a proposed ordinance that we took the liberty of authoring. Understand that that is not an ordinance that we are going to present to anyone. It is for review. It is for starters, if you will. The third page is simply a summary of the existing zoning provisions on outdoor storage.

We have some issues between us, between myself and perhaps some members of Marvin's staff, and even OCI, as to what is applicable to containers and what isn't. As an example, on the summary provision, IV-B.3.b. (Screening Standards), I read that as applying to outside open storage and not to containers. My impression of reviewing the ordinance is that we really do not have any regulations that deal specifically with storage containers, per se. We are getting a lot of calls, OCI is getting complaints, Planning is familiar with it, the Council members are familiar with it. It is a situation where I think there are some compelling reasons to deal with it and to attempt to adopt a regulation that sets some standards and some guidelines for everybody.

Quite frankly, with no Code provision, it is simply not practicable for myself or some other applicant representative to come up here on every single case with people who want storage containers. They are not all large discounters. They are not all Wal-Marts. I was up here on Wal-Mart and that is fine and good for Wal-Mart. Wal-Mart can afford to spend the money and we had to go through an amendment to a CUP, which this Commission approved, and we are currently implementing that. Very, very, very expensive procedure. We are spending about \$50,000 out there in screening and landscaping in order to accommodate storage boxes. Not every Mom and Pop, not every sole proprietorship, not every

Hobby Lobby and single Mom and Pop ownership can do that, nor can they afford to have me come in here and amend CUPs or attempt to change zoning so that they can have one or two containers one or two months per year for Christmas or back to school, nor can the lessors, nor can the people like my client, Budget Box, afford to pay me to come in to put out one box for a small retailer for two months per year. They get a couple hundred bucks a month for the box and they just can't afford the procedure.

So we need to take an overall look at it. I am not expecting any action today. The reason I came to you today is that I would like to have this Commission direct staff and I am not sure that it is really necessary to direct them, or at least permit staff to work with me a little further on the issue and to try to come back with some kind of refined proposal that is going to save us all a lot of time. It is going to save this Commission a lot of time hearing these cases individually. It is going to give the lessors a guide where they know what they can do, they know what can't do. Right now, it is as hazy as it can be, in my opinion. It is going to avoid having to come up here like for Mrs. Frost on ShopKo and I will be able to tell her this is what the Code provision is, ma'am, and this is what you can do and what you can't do and what you can't do.

So I think that it is well advised that we work on the subject. It came to the forefront here eight or nine months ago when Mr. Sparkman and his crew started writing citations to people for the illegal placement of boxes that they had been using for years. Nobody has been saying anything and everybody has been doing it. It doesn't mean it was lawful, it means that it has been happening all over town and there have been some complaints and OCI has gone out and they have started issuing citations and we have started getting a lot of calls.

So basically, that is what I wanted to share with you today. There is really no downside to permitting us to work further on it. I think Mr. Krout felt that we ought to come to the Commission and present this conceptually, at least, at this point. I went a little bit further with some proposed regs. As I say, that is a starter. I am not going to get everything I want, obviously, and I may not get anything at all, but I think we need to start looking at it.

This is not unique to Wichita, it is Maine to California, and it is Canada to the Gulf. Retailers today are using storage containers. I want to show you what we did for Wal-Mart. I am just as proud of it as I can be. Bill, would you show them that little picture of what we did at Wal-Mart? What happened at Wal-Mart was that we had containers we had to remove. We came in, we got the Community Plan amended. Once we got all of the improvements made, we asked permission for some temporary use of about four boxes on the basis that we properly screen it and make it look attractive. I am just really, really pleased with what Budget Box was able to do with those containers. If you looked at that and you didn't know it, you couldn't tell that that was anything but a cedar fence. You wouldn't even know what was behind it. That is actually not a fence, per se, that cedar is attached directly to the boxes.

We have not had, and I think Mr. Sparkman will bear me out, we have not had a single complaint. I have talked to the neighborhood associations; they are aware of this, they know what we have done. They have consented to it. I think that is a very, very attractive treatment. The reason I showed you that picture is that that is sort of a entrée to what I would like to see in an ordinance because of the fact that these boxes come in, they go out, and when you need a box, I don't have time, nor do the applicants have money, to come to this Commission to change a zoning because they want to put in a box for back to school or a box for Christmas shopping. It is kind of an immediate thing.

I think this situation works and works very well. I think it is very, very nice. That is in place at the Wal-Mart store and it is really worked well. So, those are basically my comments. I would take any questions, but I would simply ask you to extend to Mr. Krout the authority to continue looking at this. I will continue meeting with staff and attempting to come up with a proposed ordinance that we can bring back for your review. If you want to hear from either one of these folks, they are available. We did not publicize this meeting, I did not ask anybody to attend. I could have gotten many, many people up here. I have had a lot of calls. There are people who want boxes that now can't have them. That is basically where it is."

GAROFALO "So you haven't actually sat down with staff on this?"

KAPLAN "Yes, we did."

GAROFALO "Oh, you have?"

KAPLAN "That is true, Frank. I talked to Kurt Schroeder first, in OCI. Kurt and Randy and I visited initially because these problems arose and I had a conference with Kurt and Randy. I am not going to say that Kurt supports or doesn't support anything. I don't want to quote anybody, but I believe that they are open to looking at it. My take on this, Mr. Garofalo, was simply that this has become more of a policy issue. It is not just an individual case issue. I think we need a policy on this because it is so widespread and it is so common throughout the community. I don't want to deal with it on an individual case-by-case basis. I can't imagine that you do either. I think we just need some policy.

Then I went to Marvin and was invited to Development Review. We discussed it further and it was suggested that we put it on the agenda, just figuratively to have coffee and for you to think about it and see if you would permit us to go forward with us. I don't need action today, I just want to continue massaging it."

GAROFALO "You are suggesting this just for the 'LC' district?"

KAPLAN "Yeah, I am, Mr. Chairman. I really think that is where the need lies, in the 'LC' district. I think it ought to be limited to the 'LC' district. That is where our retailers are and that is where our issues are."

KROUT "Do you foresee the need at any time for these to be located in front of the main building as opposed to in a side or rear yard?"

KAPLAN "Marvin, I am certainly not contemplating that. I am thinking of rear lots and to the rear of buildings. I am not thinking of any front parking areas or areas that are accessibly viewed from an arterial street at all. I thought I kind of put that in there, maybe I didn't, but that is my intention if I didn't put that in there. So it would be rear lot, rear storage only, and I think that is going to fit. Even the ordinance, as I drew it, and I drew it with some liberality, after talking to my client, obviously advocating from my client. This is what I would like to have if I had my druthers. And I am not suggesting that that is what is going to happen, but even at that, I think rear storage only. I don't think they need to be out in front."

BARFIELD "You mentioned several retailers, you mentioned Mom and Pop stores, but aren't we basically talking about a few regional or national retailers?"

KAPLAN "Actually not, Mr. Barfield. You would be surprised. Bill Holbrook will speak to that. I was surprised at that, too because I did not realize how many of these things were being built. It is not all of the discounters. I think Bill can speak to any number of clients. This is just one lessor. There are a number of lessors in Wichita that do this. Bill can answer that question better than I, but a lot of the Mom and Pops need one box or two boxes. They are not Wal-Mart, they don't need 50 boxes. But seasonally, I use Hobby Lobby as an example because they are one that has come to my attention. But you would be surprised how many small retailers are using storage containers. The trend today is nobody is warehousing. If you want to buy a 6-pack of toilet tissue, you are going to have to recognize that you are going to pay more for it if we are going to build a warehouse to house it until we can put it on the shelf. It is nobody's marketing concept. Everything in the store is on the shelf for sale and they don't warehouse much. You can criticize that, I guess, but they work on small margins. They make a lot of money, but they make it on small margins. At least that is the education that I have gotten."

BARFIELD "What is cost of this screening?"

KAPLAN "In the Wal-Mart situation?"

BARFIELD "Well, I understood you to say that that was basically what you were suggesting."

KAPLAN "Oh, on the wood? I don't know. Bill, do you want to speak to that?"

BILL HOLBROCK "I am operations manager for Budget Mobile Storage here in Wichita. To answer your questions, we spent somewhere in the neighborhood of \$1,500 in wood, just the supplies, and then it took us a couple of days to attach it to surround the four units."

And to answer another question, two very small places that I talked to yesterday that we have units at, so you know that we don't always just work for bigger companies. We have a unit at Cora's Homestyle Cooking; we have a unit at the Starlight Drive-In Theater, right down the street from us. So we do deal with small businesses, Mom and Pops, quite often."

BARFIELD "I was thinking more in terms of retail, because that is where he was putting the emphasis at."

MICHAELIS "This is for Mr. Kaplan. Bob, are you thinking that this is going to be limited to non-stacking?"

KAPLAN "They won't be stacked, Jerry. There will be no stacking at all. I don't anticipate that they ever will."

MICHAELIS "Maybe you could incorporate that language?"

KAPLAN "Oh, absolutely. I don't know if there is stacking going on, but I would agree with that. Most of these units are 8 feet. Some of them are made to order. Budget Box makes their storage containers. They are all a manila color, and all made to order. Some of them do use a shipping container, the kind of things that are shipboard that come from the continent to the United States on board ship and I can see where some of those are not very aesthetic, but no, we will not stack them."

I am not wanting not to screen them. I am wanting screening that is affordable and almost immediate. I am not wanting to spend, like Wal-Mart has to spend, \$50,000 to screen their containers. Just not everybody can do that."

MICHAELIS "Okay, so the screening like was on those, that would be the responsibility of the lessor?"

KAPLAN "Well, I guess it would be a matter of contract between the lessor and his tenant as to who was going to pay for it, but if we affix that cedar to the box itself, it can remain on the box, and I think wherever we take the box, we can use that, except for the additional."

In this case, we ran it over to the rear wall of the building, so that it looks like a fence from the rear wall of the building, all the way around. I think you would have to agree, looking at that picture if you haven't been out there on site, that you really can't tell what you see there. You wouldn't know what was behind it. There are four storage containers within that enclosure, but you would never know it from looking at it. It could be a dumpster, for that matter."

MICHAELIS "It looks good."

KAPLAN "Yeah, I think we did a creditable job with that. I am really pleased with the way that turned out."

WARREN "Do I understand now that the vendor, the supplier of these boxes will be providing the screening also? Or make it available, is that what I am hearing?"

KAPLAN "If we can. I think, Ray, if we can do it in the manner proposed where we attach the screen, the cedar wood directly to the box. See, under the present outside storage ordinance, we have landscaping and site screening requirements, and some of that may find its way into this, too, I'm not saying it won't. I just don't agree that all of the screening requirements in the existing zoning regs are applicable to storage containers. I think it was written with the intent of concealing outdoor storage. Certainly you don't find storage boxes in there. You find things identified, but not storage containers. Donna is going to disagree with me on the intent, but that is my reading on it. I just think we need an ordinance dealing with this, and I don't think we have one."

GAROFALO "Well, under the current regulations, does this sort of screening comply? Or was it approved by Kurt Schroeder?"

KAPLAN "This was approved by Kurt Schroeder, but this was done at my request on behalf of Wal-Mart, understanding that we were in the process of implementing the masonry fencing, the cyclone fencing, the netting and the landscaping. This was a temporary thing only; it was given to me for 30 days. We have had some problems getting our crews on site."

See, I didn't know. I would have raised Billy you-know-what if I had realized that to build a 12-foot fence I needed structural engineering drawings and plan review....I thought a cyclone fence was a cyclone fence, and it is to the height of 10 feet. Once you exceed 10 feet, I needed a structural engineer and an architect and prints and I had to go to a plan review. I never knew that or I would have never agreed to 12 feet. So we really got held up. It is in plan review now. We are waiting for a building permit to build a chain-link fence because it is 12 feet high. We have to set footings and everything. I was not aware of it, or I would have argued for 10 feet. So that has kind of held us up, but we are doing 12 feet."

OSBORNE-HOWES "Do you envision this being in addition to current outdoor storage? When I think of Wal-Mart, they already have lots of outdoor storage. Would this be in addition to that outdoor storage?"

KAPLAN "Well, yeah. I am not suggesting to do away with the existing regs at all."

OSBORNE-HOWES "I know, but I mean for these containers. Do you envision this to be allowed in addition to the current outdoor storage?"

KAPLAN "Oh, no. The current amendment covers it as far as the Wal-Mart store is concerned."

MICHAELIS "But you are still going to stay within a certain percent?"

KAPLAN "Yeah. Oh, yeah. Yeah, I really am not bringing to you a specific proposal. I wrote up something kind of as I see it. Actually, as my client sees it, of course, because that is my job. And then it is just kind of for review, and then Mr. Krout and his staff did not really make any comment on it, beyond saying that they would look at it, and if the Planning Commission will allow, we will continue to try to massage it and see what there is. I don't know, in the final analysis, whether I will have Mr. Schoeder's support or Mr. Krout's support, or not. I hope I do, but I may not. But I just want you to give me a chance to work at it because I cannot accommodate the calls I have had on an individual case basis. It is just totally impractical, and you don't want an agenda full of outside storage cases, either."

Like Mrs. Frost. She is sitting here suffering because she doesn't have any storage at Shopko. And when somebody orders a 67-cent bedding plant, she has to send her runner down to the storage unit to pick it up and bring it back. And she can address that. Customers don't like it, she doesn't like it, and it is not practicable. And you are just not going to change the marketplace; you may not allow a new regulation. If that sounds argumentative, I don't mean it to be, but these discounters and this outside storage is with us. Like I said, it is Maine to California and it has been going on for years. We can't eliminate it, so we need to regulate it, and we need to regulate it in a manner so I don't have to deal with all or the cases, or somebody else doesn't have to."

JOHNSON "Of course these are storage boxes, but now, Marvin, what about storage trailers. Are they going to fall into this same thing, or since they have wheels and tires on them, they would be exempt?"

KROUT "Well, if you want to treat these differently, we can. I think there has been a question as to whether or not these containers are outside storage or not. It is clear that if they are on wheels, they are, and we think it is pretty clear that it is outside storage because it is not a building on a permanent foundation. So it is outside storage, whether it looks like a container or not."

But I think you could clarify that. I am not sure you would have to go to all of the trouble, necessarily, of this special definition, in treating this particular kind of storage differently than other outside storage. The issue is: is it screened or not. The rules are in 'LC', you are allowed 10% by right, 20% by Conditional Use permit. That seems to be the main

problem that Mr. Kaplan is talking about, is the fact that people are wanting to increase their storage over 10%, and they would like to do that without coming back for a Conditional Use each time and have it reviewed. Maybe you don't make that only an exception. If you think that is a good idea, maybe it is a good idea for any type of screened storage.

In the 'LC' district, you are supposed to screen with the same material as the main building, or another material that is approved administratively that has some landscaping attached to it. You saw some portable landscaping with this portable closure. I am not sure whether that would meet our requirements for landscaping or not. I think the key issue isn't so much that we should be treating these different than any other outside storage, but should we increase the amount of percentage of storage that is allowed to 20%, so you won't have to do Conditional Uses each time."

WARREN "Kind of in reference to what you are talking about here, Marvin, we talk about outdoor storage, and I think we have two factors. We have outside display and then we have outside storage. I think you pretty much throw them all together when you come to your 10%, don't you?"

KROUT "No, we don't. Display can be in addition to the enclosed screened storage."

WARREN "And what are the limits on display?"

KROUT "Well, in the 'LC' district, there is supposed to be no more than 10 feet beyond the building, and that is all. That is the only limit."

WARREN "And you can't infringe upon your parking or come into the parking."

KROUT "Right."

WARREN "I think there is a big difference in these and what you are talking about; the trailer, the on-wheels trailer. I think there is a big difference. I hope that we can isolate that difference so we can make reference to one or the other."

BARFIELD "I think you would have a problem doing that."

WARREN "I don't think so. I think Marvin could make an extension to these so we can describe them properly."

KROUT "And you would need to do it. What the Ordinance says now is that you have to screen the storage. That means if you have a trailer on wheels you have to have a 6 or 8 foot screen, so it may be taking care of itself already."

BARFIELD "Identification for the ones we were talking about. Those are called shipping containers. The way I understand it, we are now talking about storage containers."

KROUT "We do allow trailers to park for up to 48 hours or something like that, in back of a building. Is it 48 or 72 hours, Randy?"

RANDY SPARKMAN (From the audience) "It's 72 hours."

GAROFALO "Mr. Holbrook, do you have a comment?"

HOLBROOK "Yes. I would like to respond to Mr. Barfield's comment. There is certainly a difference between a storage container and a shipping container, and at Budget Mobile Storage, we are very proud of our units. Our units are assembled right here in Wichita; they are designed with one purpose and one purpose only--storage.

It is ground level storage. We have doors on both ends. They are not retired shipping containers. We are not as heavy, we don't make holes in parking lots. Ours are all neutral, they come in one color, beige, and we are more than happy, in the 'LC' zoning, to do exactly what we have done here to anybody. Of course, we had to reflect that back in our cost to the client, but as a service to our clients, we want the backs of their buildings or the sides of their buildings to look good. We are not here in Wichita to put some big, ugly, worn-out crate in front of something. We are proud of our units and we take good care of our units. Every time they come in, they get touched up on paint, and they get cleaned before they ever go back out. We will stand behind our units any time and ask Randy to inspect them at his convenience."

BARFIELD "I understand that, but I think from my own standpoint, basically the screening you have done, what we saw there, would not apply to what I identify as a shipping container because of the fact of it being on wheels it is going to extend above your screening."

HOLBROOK "Shipping containers can be ground level also."

BARFIELD "Yeah. I have a question, if I might, from the lady from ShopKo."

HOLBROOK "Sure."

BARFIELD "Was yours a shipping container that you had a problem with?"

ROSE FROST "I am the Store Team Leader of ShopKo on north Rock Road. We have only had storage containers and we dropped those right after our grand opening because the influx of business was great. Since then, we have had to get rid of all of our storage containers because of being in Limited Commercial, isn't that right, Randy?"

SPARKMAN (From the audience) "That's correct."

FROST "Then we had to get an off-site warehouse, which is on the west side of town, so I have to go clear out west to get my merchandise because there aren't many warehouse facilities on the east side of town. Then we need storage containers, so we can supply the need for the customer."

BARFIELD "So you are talking about permanent location, then? You want them to be permanent?"

FROST "Yes. I would like to consistently run with around 5 to 10 containers and enclose it in a fence, paint the fence the same color as the building."

GAROFALO "Mr. Krout has a question."

KROUT "If you have permanent need for 5 to 10 containers, have you talked to ShopKo about building an addition?"

FROST "Yes, we have discussed that. Because we are going on some new systems for inventory purposes, it should cause our inventory levels to go down, so therefore, eventually we would like to work within our building and not have containers at all, but right now, the way I am seeing it, permanent to me would be for at least the next year or two."

KROUT "But not really permanent in terms of years."

FROST "Well, but do you know what? I can't say that at this point. Because in the notes they have given you, yes, most of the store is selling square feet. Our back room is 10,000 square feet and it is very hard to work within that. We are just here to make the customer happy. That is what I want to do, make it convenient for the customer."

KROUT "I will just mention to the Commission that in addition to the issue of zoning, one of the issues the City Manager's office has raised, and we are trying to look into, is if and how these are taxed, or should be taxed. They are not real estate, but they are probably personal property, but we don't think that they are being taxed now and we are going to have a lot of square footage in these things. They probably ought to be treated not necessarily more favorably than real estate. That is an issue that I think we need to look at at the same time that we are looking at the zoning."

MCKAY "Who owns these storage units?"

KAPLAN "The lessors; companies like Hawk, Budget Box."

MCKAY (To Holbrook in audience) "Don't you pay taxes on the property?"

HOLBROOK (From audience) "I am the Operations Manager. Our corporate offices are here in Wichita. That is a question that our C.E.O. knows."

MCKAY "Somebody is paying taxes somewhere. It may not be the user on the side, but somebody is paying taxes."

KAPLAN "John, I can't imagine that they don't, and come October, you won't find a storage container available in this town because they will all be on-site. When it gets closer to Christmas, every lessor will have every box out. The storage yards will be empty and devoid of boxes. That is the demand."

One more sentence comment and then I will be quiet. To impose the existing outside storage regulations on every temporary user of a box is just unnecessarily burdensome. We need some relief in there, particularly for the temporary and smaller user."

KROUT "Is the relief you want relief on the 10% or relief on the landscaping?"

KAPLAN "Both, really, Marvin. The 10% we would like to see raised to 20%. The Commission may not agree with that, that is a future subject, but the landscaping, if Hobby Lobby wants one box for two months, and to require them to build a permanent fence or a masonry wall or spend \$10,000 for landscaping to put in one or two boxes for one or two months, they can't do it, which means they can't have a box at all. That is just not fair."

GAROFALO "Are there any other questions or comments? I just want to make the comment that this can be a very touchy situation for neighborhoods and people who live in the areas, so it is something that we have to look at pretty carefully. Do we need a motion on this?"

KROUT "Well, maybe just a little bit of discussion about what you would like to do with it. Let me tell you that Donna has been working on the package of zoning amendments. You know, there are several amendments that we talked about in the Comprehensive Plan dealing with more flexible setback and parking rules to encourage rehab and infill, and there are a number of other clean-ups that we are looking at. There is this idea of an R5 district, and of mixing housing types within the single-family district without having to go to public hearings. All of that is in the Comprehensive Plan and we have

been drafting proposed amendments to deal with those. You could deal with this issue and add it to the other things that we are in the process of drafting, and we could give you some suggested language.

I would suggest also that just like the last time we--and I don't remember whether it was zoning or subdivision or both; John, you may remember better than me--but we appointed a Planning Commission subcommittee of three, four or five members to look in more detail and talk about this. That has worked out pretty well for us in the past. We would like you to do that to go over these amendments that we are preparing anyway. So maybe you can just add this to the list in terms of discussion."

GAROFALO "That sounds reasonable to me."

WARREN "It seems to me that this need is real. I don't think it is hypothetical. It is there. Our attitude should be 'how can we help you without having a negative impact on neighbors?' It is as simple as that. We ought to take that attitude, I think."

MCKAY "I don't disagree with you, Ray, but the thing is that the American way is to establish a policy and then abuse it until somebody slaps you on the wrist. That is the only thing I am concerned about. If we say we are going to change the zoning or change the regulations, or whatever it might be, and all of these people we are talking about, we are talking about on a temporary basis. What is temporary? I will guarantee you that if you set it in there without some kind of rules or regulations, temporary is going to be 12 months out of the year. Why? Because it is more convenient to walk out and pick out a product than to walk across the street or drive across town to pick it up."

WARREN "And I don't have any problem with that. I don't know why that is a problem. Say it is going to be there two years. As long as it doesn't have a negative impact on residents or whoever."

MCKAY "It does have a negative impact."

WARREN "I think it is going to be a Conditional Use of some type."

MCKAY "That is what we are trying to get away from."

WARREN "Well, okay. I think we should have, though, some way to make sure, and again, we can start out with 'how can we help you?'"

KROUT "We are also talking about the possibility of licensing these like we license portable signs. That way we have an identifiable person, we know where his inventory is. If there are some abuses, you can also then pull a license. So it is more than a zoning question."

WARREN "As far as a taxing question, it is ridiculous to think that those are not personal property as equipment. If they are not real estate, then they are."

MCKAY "Do you want a motion, or just a recommendation that you look into it?"

GAROFALO "Well, why don't we just go ahead and have a motion to refer it to staff and staff present it however they see fit, along with the other zoning amendments."

MOTION: That the item be referred to the staff to add provisions for containers and increase the allowable area for outside storage in "LC" Limited Commercial District and bring it back to the Planning Commission for review.

MCKAY moved, **WARREN** seconded the motion.

GAROFALO "Is there any discussion?"

MICHAELIS "I don't know whether this would be appropriate, Marvin, but I guess I would leave it up to you to decide whether you want to get a small subcommittee out of here to work with you on that. That can be up to you."

KROUT "That's fine. We would like to. So, if Commissioners who are interested in participating on that would let me know, we will figure it out."

VOTE ON THE MOTION: The motion carried unanimously (12-0).

3. **The adoption of the Hilltop Neighborhood Revitalization Plan as a part of the Wichita-Sedgwick County Comprehensive Plan.**

RAY ONTIVEROS, Planning staff "Good afternoon. This is about the hearing on the adoption of the Hilltop Neighborhood Revitalization Plan, a plan that was handed out a couple of weeks ago to the Commissioners. We do have copies here in case you need to look at it, and I have made a couple of overheads.

GAROFALO "Was that on June 15? I didn't get one."

ONTIVEROS "I believe so. Also, I am going to pass out a summary of the comments I have this afternoon because I am only going to highlight this. This process began in the spring of 1999 with involvement, even before we were active with making use of our grant that we received from the State. You have heard this consulting firm's name before: Development Concepts of Indiana. This is one of those four original neighborhood plans. The process that the consultants took worked with the neighbors, and they had several sessions where they analyzed themselves in the neighborhood through a SWAT analysis of strengths, weaknesses, opportunities and threats. Then they followed that up with another session that is in summary form. It is called a PARK analysis, where it is more action oriented, and the letter 'P' stands for items to preserve in their neighborhood, the 'A' is items to add to their neighborhood, and the 'R' is for removing of some undesirable aspects of their neighborhood. The 'K' is to keep out future unwanted uses.

So they went through two very intense sessions at the Hilltop Free Church, and we do have some people who can speak about that. But in my case, I am going to boil down this 40-page document into just a couple of statements. As I mentioned, we passed out a short summary of these items. The plan is about two components and again, with these neighborhood plans, it is important to remember that sometimes they are not so much about new development and site plans and growth issues, they are more about stabilizing what is there, especially eliminating some of the negative aspects. So we do have a community development plan that the consultants identify here as well as a physical development plan.

Of all of the plans we have had, this one probably focuses the most on the simple things of cleaning up, property maintenance and code enforcement. There is a lot of that. We did talk about this with you three months ago when we had that preliminary, so we don't have to repeat a lot of the things that happened there. This has been updated a bit since we last met because the consultants added some more material, especially on historic preservation, and about the infrastructure. But in the issues that the residents raised, it was crime, the perception of the area, and the image it had. Now, the landlocked structures and access and difficulties with easement and parking were other problems; vacant and abandoned buildings, trash and property conditions. So you can see that it was about cleaning up the area. It was very important. Also, the relationship between the Manor, the cooperative portion of it bordering on Oliver, and then the western part, the single-family homes.

As a refresher, I have an overhead with the boundaries. In your document you should be able to see pretty clearly that Lincoln is on the north and Harry on the south, and then we have Oliver over on the east and on the west is Bluffview. That is one of our smaller areas, but it is pretty densely populated and very important to the grand scheme of improving older areas.

The nine goals that were developed in the plan again reflect a lot of these social and economic concerns about the crime in the area. Avoiding, eliminating, keeping out drugs, slum landlord conditions in a few cases, as well as difficult tenants. We also got together with landlords who also voiced their concerns about some of their fellow landlords and about tenants. So this is going to tie in very nicely with some of the other work the City has been doing in terms of incentives to help improve housing without going to inspection programs. That has been on a different track, but this is more about how we can voluntarily do something to correct that situation.

The main highlight of this area is in this diagram here (indicating) which summarizes the improvements."

MCKAY "Ray, is that in our book?"

ONTIVEROS "Yes, that is on Page 35. Basically, it talks about improvements to housing. It identifies No. 1. I will show you an overhead that shows some ornamentation and some similar improvements, but a lot of it is that. There is also a recommendation to eliminate this dividing fence between the Manor area here (indicating) and the rest of the residences and actually create a greenway. You will notice a little space here also. Being tightly packed, we know some housing that could be improved, but some that need to be removed. We have property that has difficulty with access. Right now there are lots here that do not have frontage.

The open space, as far as the third component here, to clear out a little bit and get rid of some units. It doesn't mean that everything in here is substandard, it is just an indication that the park may be located slightly off from what is shown here, but that is part of the implementation here, to identify those properties that really need to be removed or renovated.

Then, of course, one of the highlights is the activity center which is receiving many more activities here and good use, but then they have activities for the children and the young adults. That is another one of those social and economic concerns. The park provides a wonderful opportunity there, but it is something that we have to work with the police, recreation, and the school system and so on. So, these are some things that again take us beyond the traditional just physical planning.

In my notes I also have just a quick discussion about the historic preservation aspects of this plan that we talked about before, in that it is well recognized that this was the wartime housing that was very limited. There are not many places in the Country that exist. We don't want to preserve it just for the sake of preservation, for the 60 years that it has been there. But on the other hand, there are some buildings and some homes that could very well be maintained. We need to check that out. That is not to be done immediately, but something we will do with a follow-up survey. As we talked about before, it is not to impose regulations or conditions or change the status of these properties to then require people to go

through hoops to get improvements. That is not what we want to do. We just want to try to have as many benefits through funding or through new schemes to improve the façade and the appearance of some of these properties. So that is something that we will look into the old records on where some information has been gathered before by previous historic preservation planners, and we will go back to the community and talk to them about.

The report also has a section on infrastructure. We discussed that before. Again, we are not dealing with massive redevelopment or clearance, so the infrastructure that is there, the water and sewer lines are old. So far, they are functioning, but again, if we had any major changes, and we would like to encourage commercial along the edges. We have commercial here (indicating) and we have some uses here that are not quite as desirable as people would like to see, but that is what is there. If we had anything major happening, we would need to look at that much more carefully with Public Works. For the most part, it is a fairly good bill of health as far as the infrastructure. So we can continue to move ahead without major costs coming up and biting us.

The next step is, at this point, something that was addressed in the document, and we, as staff, follow up on these. We wish we had the opportunity and the funding to get a full-scale \$50,000 plan, which had many more maps and recommendations and specifics, but this is really the job of the community or neighbors, the local lenders, the development community, the neighborhood associations. All of these parties come together. We kind of gather around these plans; it is a kick-off point and we try to do some things. Some of the most important things to follow up are the formation of a community development corporation or an association to get things going, to receive funds, to apply for grants, to do some local education, and maybe even enforcement of their own standards, etc., to help people understand what it is all about.

Obviously, property conditions, maintenance, Code enforcement, these are the things that in the City's Redevelopment Incentives Task Force, one of the tracks has been to do something about that. You remember from the past few months, the rental inspection. Well, that is not on the table. There are some measures to try to get this neighborhood to work with their landlords and tenants. That is an area where we will tie in with the City.

On education, I have an item here that I refer to as home improvement education. What people can do with limited incomes and some of them with limited opportunities? They have the money but they just can't get the loans. The banks aren't willing to go as far along with helping out with loans as some people would like. Again, it is because of the location and the property values.

This slide is in your books on Page 38. This is a little grainy because it was blown up. It is a before and after. This is not here; it is in Norfolk, Virginia. It is similar, just block-type housing that is very plain. It didn't have much going for it. Actually the neighborhood really suffered. It was low income and the image was really poor. People avoided the area, knowing that. What they did was have local architects work with them to add features, whether it was shutters or porches. The porches were a big feature, and landscaping obviously. So taking the little boxes that they had there and just doing some changes such as that. It makes for a wonderful improvement. That is the kind of thing that we have to pick away at in these situations we have because we know that we are not going to have enough to buy out all properties and start all over, as we found out in Plainview, obviously, five or six years ago.

But if we can come up with some creative ways, people will understand them and if they can get some funding for them, then some of these things can happen. I do see that we have Councilmember Phil Lambke in the audience, and Sharon Askew, the former president of the neighborhood association is here. I will stop now and hear any questions you may have. You have my summary. I will be happy to turn this over to anybody else who wants to offer testimony or respond."

GAROFALO "Are there any questions of Ray?"

MCKAY "Ray, on Page 21, you have a breakdown of the survey, like 78% of the respondents rent their homes. What connections or what notification or correspondence you have had with the landlords of that 78%?"

ONTIVEROS "This survey was passed out by the consultants among people who attended the meetings. There were some landlords and some owners that were there and participated. We had a follow-up meeting afterwards where the survey was not involved, so we never surveyed them separately. We heard them more in a talk session about their issues and some of those were incorporated in the text, including the screening of tenants, funding assistance to help people with improvements, and the other one was community policing. There was a lot of support for that."

MCKAY "I guess where I am coming from is that if you are going to do anything, whether it be this neighborhood or any other neighborhood, you have to deal with the people who are going to put the bucks out that owns the property. I guess my question is what input of the landlords,...there was some talk about absentee landowners and all of this, and if they are willing to participate, does the tenant really have the ability and the desire to make this work?"

ONTIVEROS "According to the 1990 census, there was about 51% renters. Staff thinks it is about 60%. This is of the people that were there responding, so it is not the survey of everybody, so it may be less than that."

MCKAY "That is the reason why I am asking if we knew the percentage of landlords. In other words, if 49% of the people who live there own the property, then you are dealing with 49%. You could get 15 or 20% of the absentee landlords, you might get something accomplished. But if it is 60% absentee landlords and you can't get them to participate, that 40% is kind of dead in the water."

ONTIVEROS "They have participated by coming to meetings. Some of their results are mixed in with this, but we know that to continue on, they will have to be a player. They have come to at least one follow-up meeting we have had, and some of them have been picked for some of these other city task forces that have been formed to provide their input."

MCKAY "Do you know what percentage of landlords were there in relationship to ownership?"

ONTIVEROS "No, I don't. I don't think it was very high."

MCKAY "To me, that was the biggest fallacy in the whole thing. You have to deal with the landlords; the people who own the property. You are asking them to spend the money, regardless of whether they borrow it, or it is a grant, or whatever."

BARFIELD "Well, as a follow-up to that, you can look over here and it says that it is difficult to recapture the investment put into the home. Is that coming from the landlord or is that from the tenants?"

ONTIVEROS "A lot of the people that spoke own property there, and a lot of owner/occupant property owners were there. But some of the people that spoke talked about, from their prospective, they own a home, but they also own a couple of others. They talked about the difficulty in getting funds, and difficulty in some of their renters that they had. So, there is no real good separation of all of the owners and the tenants. But we had a good turnout in terms of owners that live there. That is all I can say on that."

MCKAY "You did have, did you say?"

ONTIVEROS "Yes, people who have the homes and actually live there."

HENTZEN "Ray, we have had discussions on other neighborhoods, such as Orchard, Mid-Town, now Hilltop, and I believe there are several more."

ONTIVEROS "There are a couple of others coming up later."

HENTZEN "Has anybody thrown numbers at those things that you say ought to be done. Is it \$50 million apiece, \$100 million? Have they thrown numbers at any of those things?"

ONTIVEROS "In center-city, the one downtown, yes, we had some numbers there. Actually, we are going through another stage to even refine those numbers more. In Mid-Town North, we have a couple of improvements, which we have some numbers to a road improvement and to land acquisition. This one here did not have as much because we weren't yet at the point of any specifics. That is one of the steps that we have identified that needs to be done in terms of identifying properties that would be needing to be bought and removed, as well as those road improvements, having a couple of cul-de-sacs instead of landlocked parcels there. So we have to get to that next stage."

A lot of it depended on this consultant's time frame and the information they got as well as the priorities that were set by the community. In this case, we didn't get to that stage yet, but we are focusing almost automatically on all of the other ones coming up, including an estimate of costs."

HENTZEN "While I think about it, the governing boards, city and county, somehow or another have to have a figure of some kind, otherwise if they say 'yeah, this is a good idea, let's do it' and then we get people's hopes up and then we don't do a darn thing about it. I hope we don't head down that road any more."

ONTIVEROS "No. Part of the purpose is to get these prioritized so that there are a few items that the people will support and really want. Then we focus on those and get the best estimates we can get for costs of those as opposed to just trying to just do a whole area with all of the improvements and find out it is over our heads in terms of ability to pay. So, yeah, it happens in different stages, and in this case, we still need to continue on and the residents hopefully will pick up on that, too."

MICHAELIS "Ray, this is the first one of these I have really sat in on. Just briefly, are we looking to adopt a plan that we think is feasible and then are we asking the City government, the Federal government to fund this, privately fund it, or a combination of both? Where are we going on this?"

ONTIVEROS "The combination, yes. What we are doing in this case is promoting and pushing for adoption as part of the Comprehensive Plan. It helps so much when it comes to seeking funds from federal or state organizations to have an adopted plan, as well as corporations and foundations. So that is a big step, to have an adopted plan. It is also real important not to have it so tight that we are limited to doing some things that may not be feasible down the road. So we try to maintain that edge to have the flexibility there. But that is where we are headed, towards adoption and then, as I mentioned, there are action steps that have to be identified, or tasks. There are some things the City will do, a lot of things the neighborhood will do for itself. Some things will be done together with perhaps developers. Or people that rehabilitate, you know."

MICHAELIS "Are there criteria that says 'okay, the Federal Government is going to put up this much or the local government is going to put up this much and the landowner has to put up this much'. Anything like that?"

ONTIVEROS "The City is doing some incentives, which identify some of those types of criteria and the procedures. If you do this, this is what the City will do. But that is for the City. However, the Federal Government also has programs that has their own criteria in terms of matching or in terms of contributions. What the Federal Government wants, if you have the land for example, and not be thinking about getting land. So there are requirements there. It is a matter of anything that the City is proposing. Of course, the Manager's office, Administration and the Council members have been watching the process to see what the needs are out there. They will tailor programs that zoom in on these prevalent, most important needs. That is how the City's programs will develop. The State and Federal Government already have their criteria. Private corporations and foundations also want to see implementable plans, so there is much work to be done, yet to identify that and show how this could work to all of those agencies."

GAROFALO "Are there any other questions of Ray? Council member Lambke is present. Phil, do you want to address the Commission?"

LAMBKE "I would like to relinquish my time to Mark over here. He is working with the Hilltop Improvement Alliance and he has a lot of stuff started out there."

GAROFALO "Okay, we will hear from him."

MARK "I live at 210 West Citation in Andover, Kansas. I am a local businessman, have been interested in the neighborhood there at Hilltop, and I think where I would like to start at is to recognize the folks from Hilltop that have come here today. We have Mike Hungria, the community policing person. Mike has been very active, and the police have been very active in the last three or four years in establishing a community policing initiative there. Sharon Askew has been past president of the neighborhood association. If everyone from Hilltop would please stand up. We have quite a posse we brought down here today. These folks have been active in the neighborhood and are interested in the well being of Hilltop.

Some of the other people here that I know, and I frankly don't know all of these folks, Heath Kinzel next to Mike there. Heath has broken ground on the first new home in Hilltop since 1942. He is the youth minister of Hilltop Urban church, which has also just now completed the building of a 13,000 square foot facility there in the neighborhood. I guess from my prospective, in the last two or three years, many, many good things have happened there in Hilltop, and certainly Phil Lambke and the City tearing down the old community center and building a new community center with Head Start moving in as the main tenant, it was very, very influential in the neighborhood there in addressing some of the problems which Ray made inference to.

There are a lot of good things going on there in the neighborhood. I guess the adoption of this plan, the Hilltop Improvement Alliance has been established, Gay Quisenberry is the Executive Director there and since the first of the year, they have been doing some programming there in the community center. There are after school youth programs and they have also have a summer program going on right now, a Tae-Kwondo class that the neighborhood kids have been going to. I guess the point is that there are a lot of private initiatives going on and efforts in working in conjunction with the City. I don't think anybody is suggesting that the City or you folks are going to adopt this plan and magically pony up \$50 million and solve all of the problems. It is a grass roots movement and a group of people that are interested in the neighborhood keeping the integrity of the neighborhood from the standpoint of affordable housing for honest people that need a decent place to live. I think that pretty well sums up what is going on there and the improvements that have been made. The Community Garden is something that has been established for three or four years, and I think the City has taken quite a bit of pride in that.

I think from a funding standpoint and applying for grants, it is very important to have a blueprint like this which can convey to the world, if you will, what the status of the neighborhood is, the issues we are trying to confront, and the various players that are in it. So, I guess I would ask that you adopt this as a blueprint and a plan not to build expectations. I think we have a lot of groundswell of support and initiatives and things going on there in the neighborhood, unlike the neighborhood scene in the last ten years. So to not adopt this plan, to me sends a message that we don't care and we are going to let you continue to stay there and slug it out. It is going to be a cooperative effort from all of the parties involved.

Via Christi, a contiguous neighbor has been very supportive and active within the Hilltop Improvement Association, and supportive of the changes there in the neighborhood."

GAROFALO "Commissioner McKay raised the question about the absentee landlords or people who don't live there but own property. Have you had any contacts with those sort of property owners and if so, what are their reactions?"

WHITMAN "I believe we have gotten a positive reaction from several of the major landlords in the neighborhood. They, of course, have some of the same problems that the residents do, which is 'gee, if I put money into improving this property, the likelihood of it retaining its value is not good'. They see the positive things going on in the neighborhood and as those things change, they are willing to participate and improve the properties. I would say Mike Hungrea could speak to that better, and that he probably knows the landlords better than anyone here in this room. But they are recognizing that some change is going on there in the neighborhood. I think that some of them are very receptive to working with the neighborhood associations in terms of tenant screening and also in improvements and recognizing that we've got to bring our properties up to code. But if the neighborhood is improving overall, their property values are being enhanced."

PLATT "Could you be more specific and tell us more about this Improvement Alliance?"

WHITMAN "I would be happy to. Would somebody help me pass out these brochures? The Hilltop Improvement Alliance was formed with Margalee Wright and W.I.N. Several years ago, some of us got together and said that we needed to form an improvement alliance, which we are in the final stages of obtaining a 501.c.3 status. We hired Gay Quisenberry as Executive Director, and the City, with a new community center, has kind of turned over the community center, if you will, from a programming standpoint to the improvement alliance to initiate after-school programs for youth and we have had some success in doing that. It is not meant to be competing with the Neighborhood Association. It is probably more, from my prospective, more of the fund raising arm of the community resources that are out there, and the people that would like to help in a situation such as this and don't really know how. It is kind of an umbrella organization listening to the neighborhood association, the landlords, the policing--kind of pulling together. You have all seen a mail sack before, it has a drawstring on it. Well, this is the drawstring that pulls together the resources. They are frankly here in the community right now. There are a lot of great public service organizations that are interested and willing to help in this situation. But there has to be some structure and form to it. Mennonite Housing is an example of an organization that has had several contacts with us, and I see that as very fertile ground and a possibility. We are not out to reinvent the wheel, we are out to bring together the resources that are existing in the community; bring them to bear on that neighborhood and address the very problems that are identified here in this study."

BARFIELD "I believe earlier it was mentioned have some problems with banks working with the homeowners and the landlords in this area. Can you talk about that?"

WHITMAN "I have had some contacts with Bank of America. They have a CDC, which is basically a community development corporation, which is geared towards making loans in neighborhoods of this nature. Part of the problem has been traditionally that a lot of the homes are not on permanent foundations, they are duplexes, they are not single-family homes and any one of those multitude of factors make them not want to help them and they send people out the door.

Mennonite Housing is probably the best. Andy Bias is a very impressive individual, in my opinion, and is a get going and get something done kind of guy. I believe that he has ideas that is an applicable solution for some situations in that neighborhood. Some of those would be for an individual to buy a duplex and rent half and live in the other half. Getting the banks to bend the rules, so to speak, on the collateral requirements they have in lending is also part of that. Most of the banks have a responsibility to make loans within a broad base of the community, and yet no one bank really wants to own or have to make too many of those type of loans. How we go about it, I don't have the magic answer, but I do believe that with a document like this (indicating) that serves as a focal point that people can buy into, it helps tremendously, as opposed to having to go out and recreate the wheel with 5 different banks.

I envision being able to go to banks and say that we are trying to put together half a million dollars to buy 100 properties in Hilltop. We are going to professionally manage those and work with people towards the goal of homeownership."

MCKAY "Have any physical dollars and cents been put to this study? I guess where I am coming from is that the gentleman made the comment about getting half a million dollars to buy so many units, and..."

WHITMAN "We are working with the existing landlords to merely improve the property and I know that Paul Records has talked about certain tenants which are very credit-worthy and reliable people, and an owner carry-type situation."

MCKAY "No, what I am talking about is this, you are talking about a whole area, I don't know how many units there are totally, but if the average cost to fix one of them up is \$30,000, and I am using as an example in this brochure, in Norfolk Virginia, where they said the revitalization cost only \$45,000 per unit, which \$28,000 of will be spent in the interior and \$17,000 on the exterior."

WHITMAN "There is not one house worth \$45,000 in Hilltop."

MCKAY "I just used that as an example. Has any market analysis basically been done after physical inspections of any particular area, whether it be owned by a landlord or the owned by the occupant?"

ONTIVEROS "When the consultant left, that was one of the issues raised as far as the individual homes that seemed to be needed to be bought out. They need to be identified and then prices attached to those. There is a lot of work to look at the real estate records and the realities of acquiring those. That is one of those, as Jerry brought out, or Bud, one of those action steps that needs to take place, identify some of those in line with the map that we showed and the greenways and the parks. Some of those that would be bought out and/or changed in terms of improved and attach cost to them."

MCKAY "Let's use this scenario. Thirty per cent of the people who live there own their property. Why not start with 30 per cent. I am talking about to set up a program for them, physically inspect those properties and say it is going to take 'X' amount of dollars to fix these properties up and do that as one project, not try to do Utopia, just those 30 per cent. You don't have to worry about return on your investment because it is their property, they live there."

ONTIVEROS "Property owners there are real supportive of that and with working to improve their own properties. Again, they also see the neighbor's property that is maybe a rental and that needs work, too, so they are trying to address both."

MCKAY "But as I said, you can't do everything. To me, the person that would be most important person to talk to is somebody who has spent their money, it is their home, and they live there. Get that started and then maybe it will have a snowballing effect. Then you can start purchasing properties in the area. You will have a feel for cost and a feel for if people are willing to do it, and then you go try to chase your financing down. Here we have a viable project and there are all kinds of programs out there that you can go to, but that is no different from me building an apartment complex. I have to have the dollars and cents of what it is going to cost. I be able to tell the person I am going to try to borrow from that it is a good deal. If you go to anybody and ask them for half a million dollars, they are going to look at you and say 'for what and why'?"

ONTIVEROS "Yeah. The snowball effect is beginning. People are aware and looking at their own properties that they own and live in, but they are also looking at what is around them. So it is like trying to attack this issue on several tracks, knowing that in some cases, we may be more successful, the neighborhood may receive more funds for certain projects than others. But it is all part of the whole picture."

MICHAELIS "I think he is exactly right, though. You start small and get a grubstake there and a model and then build from there. In essence of time, instead of sitting here, dissecting this thing, I think the question is whether we want to support this or not. I certainly would like to thank all of you people that came because that makes a big influence if your influence is shown. I am going to make a motion."

MOTION: That the Planning Commission adopt the Hilltop Neighborhood Revitalization Plan and make it part of the Comprehensive Plan.

MICHAELIS moved, **PLATT** seconded the motion.

GAROFALO "Are there any other comments?"

BARFIELD "I have a question for the Councilmember. I know the City has committed funds for the community center. Beyond that, has the City made any financial commitments to this project?"

PHIL LAMBKE "The community center was funded by CDBG money. That was probably 7 or 8 years ago when it was designated. There was a lot of concern about whether you tear the old building down or build a new one. Finally, we got the old building torn down and the new building built with that CDBG. Headstart now leases the building. They are the anchor tenant in there. As far as I know, the City is not spending any money on that building."

BARFIELD "I meant in terms of this phase of the program, getting beyond the community center, what he is proposing here, and we are talking about adopting this, I want to know if the City has made any commitments to involve themselves in this."

LAMBKE "The City has designated the Hilltop area as a local investment area. That makes it possible for people to get low interest loans. I am not too familiar with this one particular program. I think maybe Mark could explain that to where you can invest \$15,000 and get a grant. What is that program, Mark. Okay, Homeowners' 80. So the program is in place to assist people out there that want to buy or improve their house. I don't see any problem with it. If this plan is adopted, it is not going to cost anybody any money. We are not pledging any money to support this plan. If we adopt this plan, it is not going to cost you or me, or any other taxpayer any money."

VOTE ON THE MOTION: The motion carried with 12 votes in favor. There was no opposition.

OSBORNE-HOWES "Just a comment. I really appreciate the fact that so many Commissioners see that it is important for a plan to have some specific strategic strategies in it to make it a good plan."

HENTZEN "Mr. Chair, I have to run across the street for maybe 45 minutes, but I will be back."

Hentzen left the meeting at 1:28 p.m.

4. Approval of minutes for June 15, 2000

WARREN "I have a correction, but I will give it to the secretary."

GAROFALO "Okay. I will abstain because I was not at the meeting."

MOTION: That the Metropolitan Area Planning Commission approve the minutes for June 15, 2000 as amended.

MICHAELIS moved, **JOHNSON** seconded the motion, and it carried with 11 votes in favor. Garofalo abstained. Marnell and Hentzen were not present.

FRANK GAROFALO, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

5. Consideration of Subdivision Committee recommendations

GAROFALO "We can take 5/1 through 5/11 in one motion unless there are questions, comments, or concerns on any of them. Is there anybody here to speak on any of these items?"

MOTION: That Subdivision Committee items 5/1 through 5/11 be approved, subject to the Subdivision Committee recommendations. **PLATT** moved, **LOPEZ** seconded the motion, and it carried unanimously (11-0).

5/1. SUB2000-21 - Final Plat of KILLENWOOD POINT ADDITION, located south of 13th Street on the east side of Greenwich Road.

- A. As this site is adjacent to Wichita's city limits, the applicant shall submit a request for annexation.
- B. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the County for service through the Four Mile Creek sanitary sewer system. On the final plat tracing, appropriate wording shall be added to the Mayor's signature block indicating the City's agreement to allow a County sewer district to be formed within the City. A sanitary sewer layout is requested.
- C. The applicant shall guarantee the extension of City water to serve the lots being platted.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. County Engineering needs to comment on the need for additional right-of-way along Greenwich. 10-foot of additional right-of-way shall be dedicated along Greenwich.

The requested dedication has been denoted on the final plat.
- F. County/City Engineering needs to comment on the status of the applicant's drainage plan. The Applicant shall coordinate the removal or modification of terraces on the site with NRCS. City Engineering requests an off-site drainage easement.
- G. City Fire Department needs to comment on the plat's street names. The plat's street names are approved.
- H. The plat shall denote complete access control along the site's frontage to Greenwich.
- I. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's south property line and driving surface for Killenwood.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall guarantee the paving of the proposed streets.
- M. The owner's signature block should reference "Killenwood Pointe" Addition.
- N. The MAPC signature block should reference Frank Garofalo as the Chairman.
- O. The southwest tie point should reference Section 15, Township 27 South.
- P. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

5/2. S/D 00-13 - Final plat of CHISHOLM CREEK 2nd ADDITION, located north of 37th Street North, east side of Woodlawn.

- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.

An off-site drainage agreement is requested.

- D. Traffic Engineering needs to comment on the access controls. The plat proposes one access opening along Woodlawn in alignment with Crestmark. The dedication of access controls shall be referenced in the plat's text. The access controls are approved.
- E. The described distance and bearing for the southeastern property line as referenced in the legal description of the plat's text needs to be included on the face of the plat.
- F. It is recommended that the utility easements be set back from the south and east property lines appropriately to protect existing tree rows.

As requested, the Applicant has increased the utility easements to 20 feet along the east and south property lines.

- G. If platted, the building setback may be a minimum of 20 feet to conform with the NR District zoning standards.
- H. The Fire Lane easement and the Declaration of Condominium Line needs sufficient ties to locate it definitely with respect to the subdivision.
- I. The following note needs to be removed under the Bench Mark: "Note: Minimum building pad elevation requirements will be established on the final plat."
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

5/3. SUB2000-38 - FINAL PLAT of C.J.J. 2nd ADDITION (Formerly Larnard Smith Addition), located on the north side of Kellogg, east of Greenwich Road.

- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved subject to KDOT's approval. A letter shall be provided from KDOT indicating their willingness to

accept such drainage.

- D. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- E. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- F. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- G. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- H. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- I. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- J. Perimeter closure computations shall be submitted with the final plat tracing.
- K. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- L. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- M. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

5/4. SUB2000-17 - Final Plat of ANGEL FIRE (Formerly Eck 7th Addition), located on the north side of 47th Street South, east side of West Street.

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Prior to this plat being scheduled for City Council review, annexation of the site will need to be completed. Upon annexation, the property will be zoned SF-6, Single-Family Residential and thereby permit the lot sizes being platted.
- B. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A guarantee is required. The minimum building pad elevations for the lowest opening also need to be noted on the face of the plat.
- E. All owners that are denoted in the platting binder have not been included as signatories to the plat. These owners need to be added to the final tracing or a binder revision needs to be submitted indicating that the site's ownership is only in the party now shown on the final plat.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- H. The eastern portion of Reserve D shall be extended to the street to increase its accessibility and usefulness for all homeowners in the Addition. This may be accomplished through access easements through the lots or extension of the Reserve.
- The final plat indicates two pedestrian access easements through lots within Block C to improve the accessibility of the eastern portion of Reserve D.
- I. Traffic Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
- J. The Applicant shall guarantee the paving of the proposed interior streets. This paving guarantee shall also provide for sidewalks on at least one side of the through, non-cul-de-sac streets.
- K. City Fire Department needs to comment on the revised street names. The street names are approved.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

5/5. SUB2000-51 - One-Step final Plat of BELLOWS ADDITION, located on the north side of I-235, east side of Seneca.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. Standard soil testing is approved.

- B. City Engineering needs to indicate the status of Wichita water and sewer services for this area and if petitions for future extensions need to be provided at this time. A petition for future extension of sanitary sewer and public water is required.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan and the need for the platting of a Floodway Reserve for the existing lake. A Floodway Reserve should be platted for the eastern portion of the property.
- E. Traffic Engineering needs to comment on the need for access controls. The final plat tracing shall reference the access controls in the plat's text. Traffic Engineering has approved access control except for one opening along Seneca.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. Due to the excessive lot depth, City Fire Department needs to comment on the need for a maximum building setback to accommodate fire prevention equipment. The plat shall include a Floodway Reserve along the eastern portion which would limit construction.
- H. The lot depth to width ratio exceeds 2.5 to 1 and a modification from the Subdivision Committee will be required. A modification is approved.
- I. The 50-foot KG&E easement needs sufficient ties to locate it definitely with respect to the subdivision.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

- 5/6. DED2000-15** - Dedication of a Utility Easement from Keith Stoneking, for property generally located west of Seneca and south of 39th Street South.

OWNER/APPLICANT: Keith Stoneking, 6123 N. Custer, Wichita, KS 67204

LEGAL DESCRIPTION: The south 2 feet of the north 10 feet of the west 78 feet of Lot 6, Block A, Vilm Gardens Second Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-41 and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

- 5/7. DED2000-00016** - Dedication of street right-of-way from Juanita Doyon, for property generally located south of Boston, east of Broadway.

OWNER/APPLICANT: Juanita Doyon, 1506 S. Broadway, Wichita, KS 67211

LEGAL DESCRIPTION: The north 10 feet of the south 11 feet of Lot 3, Tosh's Subdivision of Lot 6, Zimmerly's Addition to Wichita, Kansas, said tract being located in the SW ¼ of Sec. 28, T27, R1E of the 6th P.M., Sedgwick County, Kansas.

PURPOSE OF DEDICATION: As a requirement of Conditional Use No. CON 2000-10, this dedication is being made for the purpose of additional right-of-way along Boston Street.

Planning Staff recommends the granting of this dedication be accepted.

- 5/8. DED2000-17** - Contingent Dedication of Street Right-of-Way from Juanita Doyon, for property generally located north of Harry, on the east side of Broadway.

OWNER/APPLICANT: Juanita Doyon, 1506 S. Broadway, Wichita, KS 67211

LEGAL DESCRIPTION: The west 12.5 feet of the following tract of land: The south 11 feet Lot 3, all of Lots 5 and 7, Tosh's Subdivision of Lot 6, Zimmerly's Addition to Wichita, Kansas, and the north 1/3 of the west ½ of Lot 7, Zimmerly's Addition to the City of Wichita, Kansas, said tract being located in the SW ¼ of Sec. 28, T27, R1E of the 6th P.M., Sedgwick County, Kansas.

PURPOSE OF DEDICATION: As a requirement of Conditional Use No. CON 2000-10, this Contingent Dedication is being made for the purpose of additional right-of-way along Broadway.

Planning Staff recommends the granting of this dedication be accepted.

- 5/9. DR 00-07** - Request for a Street Name Assignment to Bumgardner Street.

APPLICANT: Rita Bumgardner, 31723 W. Harry, Garden Plain, KS 67050-9547

LOCATION: West of 311th Street West, on the south side of Harry Street.

LEGAL DESCRIPTION: Beginning 2478 feet west of the northeast corner of the NE ¼ of Sec. 34 T27S R4W; thence S 881 feet, east 50 feet, north 881 feet, west 50 feet to the beginning, except the north 60 feet for highway.

REASON FOR REQUEST: Street name assignment of a private street.

CURRENT ZONING: RR, Rural Residential

Note: The property owners of this private street have requested that the street be named Bumgardner and officially recognized as such by the County.

The Wichita-Sedgwick County Address Committee was created in 1994 to avoid and correct street naming and addressing problems that were being discovered as a result of increasing growth in the county and of using the new Geographic Information System (GIS) maps and databases.

A meeting of the Wichita-Sedgwick County Address Committee was held on June 13, 2000, and it was recommended that the name of "Bumgardner" be assigned to this private street.

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- 5/10.** 1. - Request for Modification of Lot Depth to Lot Width Ratio for Lot Split No. SUB 2000-52, located East of Seneca, South of 31st Street South.
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Consideration of vacation items

GAROFALO "Okay, we will go to the vacation items."

LISA VAN DE WATER, Planning staff "Item 6/3 has been deferred for two weeks by request of the applicant. That is VAC2000-00026. There were a couple of items that the Subdivision Committee came up with that needed to be addressed prior to the Planning Commission hearing them, and he hasn't had an opportunity to complete those requests."

GAROFALO "Is there anyone here who would like to speak on Item 6/3 VAC2000-00026? Okay. Is there anyone here to speak on any of the other vacation items, 6/1 and 6/2? Okay, I will take a motion on them."

MOTION: Vacation items 6/1 and 6/2 were approved subject to the Subdivision Committee recommendations.

LOPEZ moved, **MICHAELIS** seconded the motion, and it carried unanimously (11-0).

6/1. VAC2000-00024 - Request to vacate alley right-of-way, located half block south of Harry and west of Green.

OWNER/APPLICANT: Jack Smith
AGENT: N/A
LEGAL DESCRIPTION: The east-west 15-foot alley between Block 1 and Block 10, Eicholtz Addition to Wichita, Sedgwick County, Kansas
LOCATION: ½ block south of Harry and west of Green
REASON FOR REQUEST: The land on either side is owned by the applicant.
CURRENT ZONING: Right-of-way surrounded by "LC" Limited Commercial and "TF-3" Two-Family Residential

6/2. VAC2000-00025 - Request to vacate a portion of building setback .

OWNER/APPLICANT: Dale & Norma Hecox
AGENT: Savoy, Ruggles & Bohm, P.A., c/o Mark Savoy
LEGAL DESCRIPTION: The interior 15 feet of the 35-foot building setback adjacent to Oak Knoll Road and Pawnee Avenue on Lot 2, Block 1, The Plaza at Cherry Creek Hills Addition, Wichita, Sedgwick County, Kansas.
LOCATION: North of Oak Knoll (old Pawnee) and approximately ¼ mile east of Rock.
REASON FOR REQUEST: Development of the site.
CURRENT ZONING: "OW" Office Warehouse

6/3. VAC2000-00026 - Request to vacate a portion of utility easement.

OWNER/APPLICANT: Deborah Lutz
AGENT: N/A
LEGAL DESCRIPTION: The east 6 feet of the west 20 feet of Lot 5, Block 1, Brookhaven Estates 2nd Addition to Wichita, Sedgwick County, Kansas
LOCATION: North of Central and approximately 1/3 mile west of 159th Street East (519 N. Ridgehurst)
REASON FOR REQUEST: To install a pool in the back yard.
CURRENT ZONING: "SF-6" Single-Family Residential.

MOTION: That the item be deferred for two weeks.

LOPEZ moved, **WARNER** seconded the motion, and it carried unanimously (11-0).

ZONING:

7. **Case No. ZON2000-00025** - Larry Schriener (Owner); Operating Engineers Local 101 c/o Robert Matter (Contract Purchaser/Applicant) request zone change from "RR" Rural Residential to "LI" Limited Industrial with Protective Overlay to limit uses to those required for apprenticeship program on property described as:

The east half of the Northwest Quarter of Section 22, Township 29 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas. Generally located 1/4 mile east of Ridge Road on the south side of 95th Street South.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: Operating Engineers Local 101 operates an apprenticeship program for heavy equipment operators in Weston, Missouri (see attached brochure). The apprenticeship program teaches the operation and maintenance of heavy construction equipment such as bulldozers, backhoes, and graders. The apprenticeship program is a non-profit organization funded by member construction companies that provides on-the-job training through a three-year apprenticeship. Operating Engineers Local 101 intends to expand their apprenticeship program to Sedgwick County to offer on-the-job training for 15-20 heavy equipment operators at one time.

The proposed site is an 80-acre; unplatted tract located ¼ mile east of Ridge Road on the south side of 95th Street South. The subject property is zoned "RR" Rural Residential. An abandoned hog farm is located on the subject property. The subject property is currently used for agriculture with a manufactured home located at the northwest corner of the site.

The applicant has requested "LI" Limited Industrial zoning with a Protective Overlay to limit uses to those required for the heavy equipment apprenticeship program. All of the uses proposed by the applicant are first permitted in the "GC" General Commercial district; however, at the suggestion of planning staff, the applicant requested "LI" Limited Industrial zoning with a Protective Overlay since the nature of the propose use is more industrial than commercial in nature.

As proposed in the attached site plan, the apprenticeship program involves a classroom and shop building for use as a vocational school and for indoor vehicle repair. Other areas on the site would be used as practice areas to teach the use of earth moving construction equipment. The proposed use also involves the outdoor storage of heavy construction equipment, which would be located further than 150 feet from 95th Street South and, therefore, would not require a screening fence. The east and west portions of the subject property would be maintained as open space to buffer the proposed use from adjoining properties.

The character of the surrounding area is agricultural. The subject property is buffered from adjoining properties by existing hedgerows and Dry Creek. All of the property surrounding the site is zoned "RR" Rural Residential and is used for agricultural purposes. The nearest residence to the subject property is a manufactured home located across 95th Street South from the northwest corner of the subject property. Other residences in the area are located more than ¼ mile from the site.

The applicant sent a survey to the owners of property within 1,000 feet of the subject property to inform neighboring property owners of the proposal and to receive feedback. The attached survey responses represent 6 of the 11 properties within the notification area, and the responses to the survey are favorable.

Since the applicant has indicated that the apprenticeship program will be operated only on a portion of the site located approximately in the middle of the site east to west, planning staff recommends approval of "LI" Limited Industrial zoning only the portion of the site where the apprenticeship program will be operated. Planning staff also recommends a Protective Overlay to limit uses to only those required for the apprenticeship program and to establish high development standards for the site.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: The site is located on 95th Street South, a gravel section line road with no traffic volume figures available. The proposed use is anticipated to add approximately 50-75 trips per day to the traffic volume on 95th Street South. Due to the remoteness of the site, on-site water and sewer service will be required.

CONFORMANCE TO PLANS/POLICIES: The 1999 Update to the Comprehensive Plan recently adopted by the MAPC indicates that the subject property is appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions. The proposed use is no more offensive than normal agricultural uses. The 1999 Update to the Comprehensive Plan contains the following strategy: "in those portions of rural unincorporated Sedgwick County outside the projected urban growth area, allow industrial development only when it is agriculturally oriented, dependent upon a natural resource, or as part of an appropriate expansion of an existing industrial area. The proposed use requires that an extensive land area for earth moving, which is a resource only available in rural areas of the community. The proposed use is also no more offensive than normal agricultural uses. The 1999 Update to the Comprehensive Plan also contains the following strategy: "expand educational programs and improve academic performance as a means to improve the quality of the local labor force."

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends APPROVAL of "LI" Limited Industrial zoning only for the portion of the subject property necessary for operating the apprenticeship program. Within 14 days after approval of by the MAPC, the applicant shall submit a legal description for the area to be zoned "LI" Limited Industrial. The area to be zoned "LI" Limited Industrial shall be no larger than the area necessary to operate the classroom and shop building, the parking area, the equipment parking area, and the practice areas and shall not include any portion of the subject property that is within the 100-year floodway fringe of Dry Creek. The rezoning should be subject to platting the portion of the subject property to be developed with structures within 1-year and the following additional provisions of a Protective Overlay:

1. The permitted uses for the area zoned "LI" Limited Industrial shall be limited to vocational school; vehicle repair, limited; storage, outdoor; and any use determined by the Zoning Administrator to be necessary for or accessory to the operation of a heavy equipment apprenticeship program.
2. Within 30 days after approval of by the Governing Body, the applicant shall submit for approval by the Director of Planning a revised site plan that is drawn to scale; indicates the approximate location of improvements and uses associated with the apprenticeship program; indicates the size and location of the open space/agricultural buffer on the east and west portion of the site; indicates the removal of all structures, facilities, and debris associated with the pre-existing hog farm; and indicates the location and type of buffer tree planting along the north property line. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
3. The hours of operation shall be limited to 7 a.m. to 7 p.m. with no operation on Sunday or official holidays.
4. Only one practice may be operated at a time, and the size of each practice area shall be limited to the size indicated on the approved site plan. After a practice area is closed, the ground shall be covered within the next planting season with a perennial drought-resistant grass.
5. Existing hedgerows and other trees on the site shall not be removed unless necessary for the construction of improvements associated with the apprenticeship program. If trees are required to be removed, they shall be replaced with a like number of trees serving the purpose of screening the use of the site from neighboring properties.
6. Prior to the issuance of a building permit, the grading operations associated with apprenticeship program shall be submitted for review and approved by the Sedgwick County Department of Public Works, which may impose conditions on the grading operation to limit the impact of the operation on drainage and erosion.
7. Prior to the issuance of a building permit, the plan for removal of all structures, facilities, and debris associated with the pre-existing hog farm shall be submitted for review and approved by the Wichita-Sedgwick County Department of Community Health, which may impose conditions on the site clean-up to ensure remediation of environmental impacts of the pre-existing hog farm.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The subject property is buffered from adjoining properties by existing hedgerows and the Spring Creek. All of the property surrounding the site is zoned "RR" Rural Residential and is used for agricultural purposes. The nearest residence to the subject property is a manufactured home located across 95th Street South from the northwest corner of the subject property. Other residences in the area are located more than ¼ mile from the site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential. The purpose of the "RR" Rural Residential district is to accommodate very large lot, single family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The subject property is suitable for the uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is no more offensive than the industrial uses permitted by Conditional Use in the "RR" Rural Residential district and is

of similar intensity to normal agricultural operations. The site development regulations of the Unified Zoning Code and the additional provisions of the Protective Overlay should limit any detrimental affects on nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 1999 Update to the Comprehensive Plan recently adopted by the MAPC indicates that the subject property is appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions. While the proposed use is not by necessity rural, it is a use that requires a large contiguous tract typically found only in rural areas. The proposed use is also no more offensive than normal agricultural uses. The 1999 Update to the Comprehensive Plan also contains the following strategy: "expand educational programs and improve academic performance as a means to improve the quality of the local labor force."
5. Impact of the proposed development on community facilities: The development as proposed should have limited impact on community facilities.

KNEBEL "This proposed use is to operate a Heavy Equipment Apprenticeship Program. This program is proposed by a non-profit organization called Operating Engineers Local 101 that currently operates a similar program in Missouri. The purpose of this program is to teach the operation and maintenance of heavy construction equipment.

The uses that the applicant has proposed which are shown on the site plan are first permitted in the General Commercial district; however, at the recommendation of the Planning staff, the applicant has requested Limited Industrial with a Protective Overlay, due to the industrial nature of the proposed uses.

As you can see on the site plan, the applicant is proposing a building here which would be used for classroom teaching and the maintenance of vehicles. It also would have practice areas, three different ones here toward the south end of the site and then also an outdoor storage area for the storage of the heavy equipment vehicles. They are also proposing open space on both the east and west side of the 80-acre tract as a buffer to the residential properties adjoining this. The site is an abandon hog farm. The property that fronts 95th Street is where the hog farm was located, and in the rear of the hog farm is a wheat field. The applicant has proposed to clean up the site and remove all of the debris and structures left over from the operation of the hog farm.

The area surrounding the site is entirely agricultural. There is a manufactured house that is on the subject property. It will remain on the property. The applicant actually requested to change the zoning of this to Limited Industrial but as you will see later, they are not going to need that change for this portion, so we are recommending against that to allow this to continue to be a conforming use. The applicant sent a survey around to the owners on the notification list. The responses to those are attached and appear to be favorable.

Regarding the use of this property and how the Comprehensive Plan indicates that it should be used, it is indicated as being an area that is suitable for rural development. The rural category does allow uses that are no more offensive than normal agricultural uses and it is the opinion of the Planning staff that the proposed use fits that classification. The Comprehensive Plan also indicates that industrial development should be allowed in rural areas when it is dependent upon a natural resource and we think that the extensive land area required for the particular operation here is something that is only going to be found in a rural area. It may be a little bit of a stretch to call it a natural resource, but it is definitely a resource. The Comprehensive Plan also has a strategy regarding expanding educational programs as a means to improve the quality of the local labor force, and we feel that this particular application definitely meets that criteria.

As I mentioned, the Planning staff is recommending approval of the Limited Industrial zoning, but only for a portion of the subject property which is required to operate the proposed uses. We are also recommending that any of the property of this particular site, which is located within the 100-year flood plain of the Dry Creek, which runs across the southwest corner, not be rezoned Industrial either.

We are recommending that this rezoning be approved subject to platting of a portion of the subject property, which will contain permanent structures, approximately in this location here and also several conditions of a Protective Overlay. I will run through those quickly for you. They are listed on Page 4 and 5 of the staff report. The first one would be to limit the industrial type uses to only those uses that are required to operate the program that is proposed by the applicant. We are also asking for an improved site plan, which is drawn to scale and more accurately reflects the locations of the items that are generally shown here on the site plan on the screen. We are recommending limitations to the hours of operations, recommending that only one of the practice areas be operated at a time. They show three on the site plan. And that when one is closed and a new one is started that the old practice area be seeded with grass to prevent erosion."

GAROFALO "Could I interrupt you for just a second. Going back to No. 3 on the hours of operation. In the applicant's survey to the neighborhood, they put down 8:00 a.m. to 4:30 p.m. Monday through Friday."

KNEBEL "Correct."

GAROFALO "Why do we have 7:00 a.m. to 7:00 p.m.?"

KNEBEL "I think those are reasonable and allow a little bit of flexibility for operation. If the applicant is willing to go with 8:00 to 4:30, we certainly don't have a problem with it, but I think that is a little bit too restrictive, in my opinion anyway."

The other requirements deal with improvements and use of the land. We are recommending that all of the existing hedgerows which are quite extensive and go basically all of the way around the property be maintained and that if they do need to be removed that they be replaced with some screening trees, basically in like amount to continue to maintain the screen from adjacent properties. We recommend that the operations be operated by an approved grading plan that would be approved by the County Engineer and that the removal plan for cleaning up the existing hog farm be reviewed and approved by the County Health Department. I am available for questions."

MCKAY "I don't have any problems with the request, but I am really having a problem with what we are supposed to approve."

KROUT "This was filed before we had that discussion on site plans, but Scott has indicated to you that we are expecting them to revise it."

PLATT "You need to add the word practice 'areas' on item No. 4 there."

KNEBEL "I did catch that. Thank you."

GAROFALO "Are there any other questions? I have a question. On the Limited Industrial to limit it to that particular area where they will be operating, I think somewhere in here it indicates that they would only use those practice areas for a certain length of time and then they would have to move to another location?"

KNEBEL "Well, to the other practice areas on the site, yes."

GAROFALO "Okay. I thought maybe if they had to go elsewhere then would they have to come back in or something?"

KNEBEL "That is not the indication I received, but maybe the applicant can answer that question better."

BARFIELD "On No. 3, there are the hours and then the official holidays. Are those going to be still in there?"

KNEBEL "Maybe we could say 'official federal holidays' or something along those lines. Maybe the official holidays that the applicant requests."

GAROFALO "I think we could ask the applicant about the hours of operation and all of that."

MICHAELIS "I was going to make a comment on No. 3, too. Actually, I don't even see a need for No. 3. We have farm ground all the way around there and they are operating 24 hours a day. I don't know what the difference is. That is my comment. I think No. 3 should be taken out."

GAROFALO "Are there any other questions? Okay, then we will hear from the applicant."

BOB MATTER "I am the Administrator of the Operating Engineers Apprenticeship and training fund. My address is P.O. Box 197 Platte City, Missouri. I think it has been pretty well spelled out what we do and as far as the site plan, we are working quite some distance away, and I do have a local architect on board now who is developing a site plan and has made a survey, I think, of the site. He is on vacation this week so I can't talk to him, but I will get into that Monday."

We will have a site plan; I have been told, within the next couple of weeks. One drawn up by an architect. We have a site similar to this in northern Missouri. The residents have found us to be very good neighbors. We have local people in our training program, we work with the area high schools and take people out of the building trades classes and what not and put them in our apprentice program. They then go out, after a little training and work for the contractors as apprentice heavy equipment people.

We do try to be very good neighbors as far as erosion, and that is the reason for different practice areas. We do things like hay bales on the low ends of things; the same thing contractors do on road jobs and building sites. We try to open up a very small portion at one time of the property, and we then seed it back down after it is used. Believe it or not, dirt will wear out if you dig holes in it enough times and cover them up. So we then seed it back down and move on to the next site and try not to open very much up at once.

We have been at our present location for 12 years now and the Soil Conservation Service in that county has found us to be very good to work with. In fact we have built some small soil conservation projects on the property that they have came and staked out for us, just like of the area farmers do.

As far as the hours of operation, actual equipment running, when we say 8:00 to 4:30, that is stretching it a little because our people show up at 8:00 and we start at 8:00. By the time they get a little safety orientation in the morning, the first thing they do is grab a grease gun and grease the backhoe or whatever they are going to be running that day. It is usually about 8:30 or 8:45 before they even get on the practice area. There again, we like to keep our lunch hour to 30 minutes, just like a real job, but just like other real jobs, it gets stretched out to an hour, so by the time they shut down at 11:30 to get in for lunch and then eat lunch and then get back on a piece of equipment, it is usually 1:00 before they start up again, so then, along about 3:15, we have to start bringing them in and fueling the equipment and get them parked and secured

for the evening and get them out the gate by 4:30 and we get the people in training out of there a little after 4:00, so I don't have to pay the instructors overtime if they stay past 4:30. They will charge it if I don't have them out of there by 4:30.

So our actual hours of operation, I can assure you, will be right through the middle of the day. This is not a rock quarry or anything like that that we are talking about having. We also work with the Affirmative Action entities in all of the areas. We have minorities and females in our program at all times and we help the local contractors in that endeavor also. If you have any other questions or any of the residents are here and have any questions, I would be more than happy to answer them."

BARFIELD "Are you comfortable with the conditions that staff has set?"

MATTER "It is basically what we do in the other areas. We don't intend to open up a big area. We do want to keep a filter belt on the lower side of the property like we have shown you there, and some kind of grass. We can live with those conditions, yeah. Pretty much what we are doing now; we are agricultural people, all of us that do this, and we respect the soil and we respect the community. So we can live with them very easily."

GAROFALO "You don't have a problem with limiting the zoning change to the area that was pointed out?"

MATTER "I don't have a problem with it. I don't know why they want to do it, but if that is what they want to do, we can live with it. It would naturally serve our purposes better if maybe we could move up to the top of the hill someday and have a practice area 10 years down the road instead of those there, but if that is what the Commission feels is necessary, we can live with that. We are not here to re-write the rules. There are no plans to come in here and clean this up and build a subdivision. That is not what we are doing this for. We are doing this to make a commitment here.

Kansas has made a commitment to build a whole bunch of roads for the next 10 years, and it is going to take some operators and we have made a commitment through our training to try to get some local people involved. That is not an issue with us."

GAROFALO "A point of clarification. Do you function Monday through Friday?"

MATTER "Monday through Friday. There are occasional times, and we do some training of the additional workforce. There are about probably three Saturdays out of the year in the wintertime that we have indoor classes on Saturdays. I can't recall any time in the last ten years that we have had Saturday classes outside, but we do do some things to reach out to the existing workforce that is classroom-type things, and we do those on Saturday mornings three or four times per year, but there is no equipment ran at that time."

GAROFALO "My only concern about the hours is that you had it in your survey to the neighbors and they said okay on that, and then if it was changed, maybe some of the neighbors might not like the idea. That is why I raised that question."

MATTER "Well, we want to get along with the neighbors."

WARREN "You are suggesting here that preferably you would like to have the whole 80 acres in this zoning. Are you suggesting and maybe you said they might want to move that mobile home and therefore pick up on that area to do the same thing in the practice area?"

MATTER "No. I made no recommendations to your zoning people. This was basically what they felt comfortable with and gave us. We just came down here looking for a place to do it."

WARREN "What was your reference about moving up on the hill?"

MATTER "As the gentleman asked would we be comfortable with this and could live with it. I said 'yeah, we can' if that is what they want. These are the recommendations that your people left with us. If it weren't, we might have the flexibility down the road of having a training area up on the hill as opposed to down in that other area. It might be better for farming back there. Some farmers have already talked about wanting to rent the unused portion to grow wheat on.

Yeah, it would give us more flexibility, but I am not trying to make any waves, we are just trying to do what we need do get this done and get ourselves in operation."

OSBORNE-HOWES "I just want to get a point of clarification in. If we start talking about changing the parameters of the area, would we have to re-advertise this case, or not?"

KROUT "No. We advertised the entire 80 acres, so you can approve the zoning on all or a part of it."

WARREN "With the heavy restrictions we have in this Protective Overlay, outside of the fact that we have apparently a quasi mobile home up there that is going to be in some kind of a legal non-conforming use, I see no reason not to go ahead, on that 80 acres, with the heavy restrictions of this Protective Overlay."

KROUT "Not knowing how owners who are zoning would feel this, and whether or not they have any plans to develop their property and before we had a public hearing, we thought that some kind of a buffer was appropriate. My suggestion is, let's continue the public hearing and find out."

MATTER "I have never met the individual that lives in the mobile home. It is my understanding that the owner rented that space to them for \$125 a month and they were some kind of a person that watched the site there. I don't know anything about them or the arrangement or anything else. That is just there and I don't know anything about it. We were going to try to work around it. We are not here to come in and kick anybody out of their home immediately."

GAROFALO "Is there anyone else here who would like to speak in favor of this application?"

JANET REUSSER "I do not live in the State of Kansas, but I do own the 80 acres to the east of the proposed new zoning site. I personally do not have a problem with this area to be zoned for Light Industrial use as opposed to the Rural Residential that it is right now. The site where it is right now, with the hog stations right there are an eyesore. I would highly recommend, as a property-owner in the area that this organization come in and do what they need to do to improve the whole vicinity. I think Mr. Matter has proposed a pretty decent plan here as far as the area for his new operations. So I am in favor of this area for this development."

I have visited with the folks in Weston, Missouri. I live in northwest Missouri right now, and they have said that the area they are stationed at right now is surrounded by residents. Is that correct, Mr. Matter? Okay. And they have found it to be a very aesthetically pleasing site. So I think the folks in the area out on 95th Street and Ridge and Hoover will welcome this development in the area. Thank you."

OSBORNE-HOWES "Do we need to get an address for her?"

GAROFALO "Ma'am, could you give your address?"

REUSSER "I did put it on the sign-up sheet."

GAROFALO "Okay."

MATTER "Could I make one more comment?"

GAROFALO "You do have rebuttal time, but we have to see if there are any other speakers, then you can have two minutes. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? Okay, then, you won't need two minutes rebuttal because there is no one here in opposition. Go ahead."

MATTER "One thing I would want to clarify. Where the existing hog operation is now, although that would not be a practice area, we would plan on using our equipment and doing that ourselves with the people that we have. We would load it up in trucks and haul it off, but we would do that ourselves."

GAROFALO "Okay, thank you. We will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The subject property is buffered from adjoining properties by existing hedgerows and the Spring Creek. All of the property surrounding the site is zoned "RR" Rural Residential and is used for agricultural purposes. The nearest residence to the subject property is a manufactured home located across 95th Street South from the northwest corner of the subject property. Other residences in the area are located more than ¼ mile from the site. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential. The purpose of the "RR" Rural Residential district is to accommodate very large lot, single family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The subject property is suitable for the uses to which it has been restricted. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is no more offensive than the industrial uses permitted by Conditional Use in the "RR" Rural Residential district and is of similar intensity to normal agricultural operations. The site development regulations of the Unified Zoning Code and the additional provisions of the Protective Overlay should limit any detrimental effects on nearby property. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 1999 Update to the Comprehensive Plan recently adopted by the MAPC indicates that the subject property is appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions. While the proposed use is not by necessity rural, it is a use that requires a large contiguous tract typically found only in rural areas. The proposed use is also no more offensive than normal agricultural uses. The 1999 Update to the Comprehensive Plan also contains the following strategy: "expand educational programs and

improve academic performance as a means to improve the quality of the local labor force." Impact of the proposed development on community facilities: The development as proposed should have limited impact on community facilities.) I move that we approve, subject to staff comments."

GAROFALO "Are there any other comments or discussion?"

BARFIELD "Did you say you didn't care whether we rezone the entire 80 acres?"

MCKAY "Staff recommended it to be approved, by certain areas to be approved."

BARFIELD "I would like to make an amendment to the motion."

GAROFALO "You would have to make a substitute motion."

CARRAHER "A point of order, Mr. Chair. The Commissioner can make a friendly amendment and if it accepted by Commissioner McKay, he can add it on to the motion without going through all of that."

GAROFALO "It's our Robert's Rules expert who just spoke."

BARFIELD "My amendment would be that we remove Item No. 3 and also approve the entire 80 acres."

MCKAY "Okay. I accept that amendment."

GAROFALO "Okay, he accepts that. Does the second accept it?"

KNEBEL "Commissioners, I do have one suggestion for the Commissioners. If you are going to rezone the entire 80 acres that you consider adding the agriculture to the list of permitted uses, in Item No. 1."

MCKAY "I'll accept that."

GAROFALO "That makes sense. Okay, we will add that."

KROUT "That is allowed anyway, probably."

GAROFALO "It is allowed anyway? Okay, is that agreeable to the motion maker and the second?"

MCKAY "Sure."

WARNER "Yes."

GAROFALO "Okay. They are real agreeable today. Is there any other discussion?"

AMENDED MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

1. The permitted uses for the area zoned "LI" Limited Industrial shall be limited to agriculture; vocational school; vehicle repair, limited; storage, outdoor; and any use determined by the Zoning Administrator to be necessary for or accessory to the operation of a heavy equipment apprenticeship program.
2. Within 30 days after approval of by the Governing Body, the applicant shall submit for approval by the Director of Planning a revised site plan that is drawn to scale; indicates the approximate location of improvements and uses associated with the apprenticeship program; indicates the size and location of the open space/agricultural buffer on the east and west portion of the site; indicates the removal of all structures, facilities, and debris associated with the pre-existing hog farm; and indicates the location and type of buffer tree planting along the north property line. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
3. Only one practice area may be operated at a time, and the size of each practice area shall be limited to the size indicated on the approved site plan. After a practice area is closed, the ground shall be covered within the next planting season with a perennial drought-resistant grass.
4. Existing hedgerows and other trees on the site shall not be removed unless necessary for the construction of improvements associated with the apprenticeship program. If trees are required to be removed, they shall be replaced with a like number of trees serving the purpose of screening the use of the site from neighboring properties.
5. Prior to the issuance of a building permit, the grading operations associated with apprenticeship program shall be submitted for review and approved by the Sedgwick County Department of Public Works, which may impose conditions on the grading operation to limit the impact of the operation on drainage and erosion.

6. Prior to the issuance of a building permit, the plan for removal of all structures, facilities, and debris associated with the pre-existing hog farm shall be submitted for review and approved by the Wichita-Sedgwick County Department of Community Health, which may impose conditions on the site clean-up to ensure remediation of environmental impacts of the pre-existing hog farm.

MCKAY moved, **WARNER** seconded the motion.

VOTE ON THE AMENDED MOTION: The motion carried unanimously with 11 votes in favor. There was no opposition.

KROUT "Scott, let's just be sure that you work with the applicant, before this is sent to the County Commission, on the revised site plan that shows how the entire 80 acres is going to be used and it shows where the 100-year flood plain is."

KNEBEL "Right."

8. **Case No. ZON2000-00023** - Mary J. Mollett, (Owner), Ritchie Associates, Inc. (applicant) and Jason Gish, MKEC (Agent) request zone change from "RR" Rural Residential to "LI" Limited Industrial zoning on property described as:

The Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except the following described tracts:

A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows:

Beginning at the Southwest corner of said Northwest Quarter; thence East 223 feet; thence North 150 feet; thence West 223 feet; thence South 150 feet to the point of beginning, except the West 50 feet thereof.

And

That part of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning 150 feet North of the Southwest corner thereof; thence North along the West line of said Northwest Quarter, 7.0 feet; thence East parallel with the South line of said Northwest Quarter, 223.0 feet; thence South parallel with the West line of said Northwest Quarter, 7.0 feet; thence West parallel with the South line of said Northwest Quarter, 223.0 feet to the point of beginning, except the West 50 feet thereof.

And

A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of said Northwest Quarter; thence North, on the West line of said Northwest Quarter, on an assumed bearing of North 0 degrees 00'00" East, a distance of 157 feet; thence North 89 degrees 38'42" East, parallel with the south line of said Northwest Quarter, a distance of 223 feet to the point of beginning; thence North 0 degrees 0'00" East, a distance of 138 feet; thence South 89 degrees 38'42" West, a distance of 223 feet to a point on the West line of said Northwest Quarter; thence North 0 degrees 00'00" East, on said West line, a distance of 42.00 feet; thence North 89 degrees 38' 42" East, a distance of 240.74 feet; thence South 0 degrees 00'00" West, a distance of 180.00 feet; thence South 89 degrees 38'42" West, a distance of 17.74 feet to the point of beginning.

And

A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point 150 feet North of the Southwest corner of said Northwest Quarter; thence East 223 feet; thence North parallel with the West line of said Quarter Section 145 feet; thence West 223 feet; thence South 145 feet to the place of beginning, except the South 7 feet thereof.

Generally located on the southeast corner of Greenwich Road and 29th Street North intersection.

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting approval of "LI" Limited Industrial zoning on 159 acres of undeveloped and unplatted property currently zoned "RR" Rural Residential. The application area is a rectangular shaped parcel and is located at the southeast corner of Greenwich and 29th Street North. The applicant is requesting a zone change in order to allow for the sale of the property. At this point in time the only identified use is for a Ritchie Associates, Inc. contractor storage yard. Ritchie Associates' current contractor storage yard is located on the southeast corner of 127th Street and 21st Street East. That location has been sold and the company is attempting to find another suitable site for this use. There was no site plan submitted as part of this application.

Surrounding properties to the north (zoned "RR" Rural Residential) and east (zoned "SF-20" and "RR") are largely undeveloped and used for agricultural and residential uses. 29th Street North (an unpaved street) runs along the north property line. There is a hedgerow along the east property line; Greenwich is the west property line. Across Greenwich, to

the west, is the Regency Park Addition and soccer fields that are zoned "LI" Limited Industrial. There is a residential property located at the southwest corner of the application area and adjacent to K-96.

Construction sales and service (contractor storage yard) is permitted in the "LC","GC", "CBD","OW", "IP", "LI", "GI" districts, by right, subject to the following condition: in the "LC" district it shall be mainly a retail business and not a wholesale or service business and it shall comply with all limitations on outdoor display and storage as specified in Sec. III-B.14.e (special LC district regulations dealing with sizes in excess of 6 acres, outdoor display, outdoor storage, outdoor business promotions, environmental performance standards and signage in the county.)

Staff is of the opinion that rezoning of a site this large for the wide range of uses allowed in "LI" deserves careful consideration. The Unified Zoning Code includes CUPs as a development option for developments of this size in the "LI" zoning district. The Code also includes the Industrial Park District, that is intended to accommodate limited commercial services, research and development, administrative facilities, and industrial and manufacturing uses, in a more campus-like setting. The applicant has indicated that this district would be too limiting because portions of the site may have the potential for retail, hotel, funeral home or medical service uses. Staff is also of the opinion that the potential traffic generation from a site this large warrants a traffic study.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential	Undeveloped Farmland
EAST: "SF-6" Single-Family & "RR"	Undeveloped Farmland
SOUTH: "SF-20" Single-Family	Residential/K-96
WEST: "LI" Limited Industrial	Commercial/soccer fields

PUBLIC SERVICES: Municipal water and sewer service is available to this site and is within the City's future service boundary. A lift station and additional improvements to the City's sewer system provide the capacity to serve this area with sewer. The property has access to Greenwich, a two-lane county-maintained arterial, with traffic volumes of approximately 1,330 average daily trips (ADT) between 29th Street and K-96. The 2030 Transportation Plan projects traffic along Greenwich to be nearly 5,000 (ADT) and to remain a two-lane arterial. The plan projected some development north of K-96, but not of the magnitude that is possible with "LI" zoning over such a large area. Depending on the uses that develop, Greenwich may well need to be improved to a four or five lane arterial, with at least the south ramp intersection with Greenwich signalized, to accommodate future traffic volumes in this area.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "low-density residential uses." The locational guidelines of the Comprehensive Plan indicates that industrial uses should be located in close proximity to support services and provided good access to major arterials, belt highways, utility lines, along railroad spurs, near airports and as extensions of existing industrial areas.

RECOMMENDATION: In order to address concerns about the aesthetic impact of industrial uses and the traffic impact of an office/commercial development of this size, MAPD staff is recommending some restrictions on use and traffic generation for this tract. The rezoning of the Regency Park Addition west of Greenwich, requested by the same applicant, was approved by the Board of County Commissioners in March 1997 with a covenant that was recorded at the time of platting that eliminated some uses in the "LI" district.

This request would introduce nonresidential uses into this area that is mostly agricultural at this time. There also appears to be no shortage of vacant industrial-zoned land in the area. But the request is consistent with the industrial locational guidelines for such uses to be located in areas that can be provided with municipal services and convenient vehicular and truck access to a freeway interchange. Also, this request is consistent with typical development patterns in metropolitan areas of locating large-scale office, commercial, and industrial uses along or near freeway interchanges. However, without a traffic study being submitted to assess the potential impacts and street improvement needs, the uses should be limited on this tract. A single-family subdivision on this tract would generate 3-4000 average daily trips; industrial park 8-10,000 trips, and regional mall 40-50,000 trips.

Based on the information available prior to the public hearing, MAPD staff recommends the request be APPROVED, subject to platting within a period of one year and subject to the additional provisions of a Protective Overlay #74 (P-O) district as outlined below:

1. **Uses:** All uses permitted in the "LI" zoning district except that an asphalt or concrete plant, limited, will not be permitted. Should there be a need for more than 100,000 square feet of floor area of non-"IP" uses, a traffic study will then be completed. The maximum square footage of non-"IP" uses may be increased to 300,000 square feet by an adjustment. The City Traffic Engineer may require that additional traffic improvements be guaranteed to support this traffic volume. The total average daily traffic generated by the uses within this property shall not exceed 8,000 ADT.
2. The transfer of the title on all or any portion of the land included in the development does not constitute a termination of the plan or any portion thereof; but said plan shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the

Planning Director, with the concurrence of the OCI Superintendent, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal amendment.

3. Minimum setback requirements for all front setbacks will be 25 feet, rear-10 feet, interior side-15 feet, and street side yard-35 feet.
4. Outdoor storage and work areas shall not be located in front yard setback areas, and shall be screened from view of all internal and external streets and other ownership's within and abutting the property.
5. Height: 55 feet maximum height for all structures.
6. Signs: All signs along Greenwich, 29th Street North, and K-96 shall be limited to the standards for the "IP" district in the City of Wichita's sign code. No signs with rotating or flashing lights shall be permitted, nor shall any portable signs or off-site signs be permitted.
7. No building permits shall be issued for any development without municipal water and sewer service.
8. Cross-lot circulation is to be provided for all lots developed for retail, commercial or office uses, through the approval of site plans by the Director of Planning.

It is anticipated that, as part of the platting process, staff will be requesting guarantees for a portion of the cost of signaling the south ramp intersection with Greenwich, and for widening Greenwich north of that point, unless a traffic study is submitted that shows these are not needed. Paving of 29th Street and additional signalization on Greenwich may also be needed, depending on the proposed subdivision and access pattern. Apparently no guarantees for street improvements were taken with the plat of Regency Park Addition in 1997, an oversight at the time.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding properties to the north and east are largely undeveloped and used for agricultural and residential uses. The Regency Park Addition is west of Greenwich and zoned "LI." There is a small rectangular piece of property zoned "SF-6" adjacent to the southeast corner of the application area.
2. The suitability of the subject property for the uses to which it has been restricted. The location of the site along the K-96 Expressway and across from "LI" zoning to the west, makes at least a portion of this area less desirable for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. The proposed rezoning would permit commercial and industrial uses that would generate increased traffic, noise, lighting, and etc. as compared to uses that would otherwise develop under the existing residential zoning. However, the "LI" zoning to the west and airport to the northwest already impacts this area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The request is consistent with the City and County's typical zoning pattern of locating nonresidential uses at arterial intersections or freeway interchanges. The industrial locational guidelines of the Comprehensive Plan indicate that such uses should be located in close proximity to support services and provided good access to major arterials, belt highways, utility lines, along railroad spurs, near airports, and as extensions of existing industrial areas.

The 1993 Land Use Guide did not anticipate industrial uses in this location since there was an estimated 80 years of industrially zoned land in 1993. However, not all of that land is available or marketable. MAPC recommended updating the plan designates this area as appropriate for new growth within the next 10 years.

5. Impact of the proposed development on community facilities: Neither municipal water or sewer services are currently available to serve this site. However, the City plans for future extensions of water service to this area and staff from both the City and County indicate that this area could be served with sewer service by one of the two sewer utilities. Depending on the nature of the development that occurs on this property, significant improvements may be necessitated. Without a traffic study to assess these impacts, it is appropriate to limit the traffic generated by development on the property.

CARROLL "You should have a revised copy of the staff report."

GAROFALO "Barry, what is revised about it?"

CARROLL "We had a couple of meetings with the applicant this week and Item No. 1 on Page 4 has been revised. It's where it says 'uses', all uses permitted in the 'LI' Limited Industrial zoning district except that an asphalt or concrete plant would not be permitted. There is a residence in the corner that is not included in the application area.

The applicant is here this afternoon to answer any questions that you might have. To summarize, we are recommending approval of this request, subject to the conditions on Pages 4 and 5 with a Protective Overlay. We are anticipating that this is a growth area and that the Traffic Engineer may require additional traffic improvements to be guaranteed to support what we think are going to be increased traffic volumes. I would respond to any questions that you might have."

GAROFALO "Item No. 3 on the staff report is also a little different in the revised one."

CARROLL "Oh, yes. That is correct. On Item No. 3 we made the setbacks a little more clear at the applicant's request."

MCKAY "Why are those two about the batch plant and asphalt plant in there?"

CARROLL "That was at the applicant's suggestion."

MCKAY "Okay."

MILLER "A little background on this, staff was recommending originally that they be restricted to Industrial Park uses plus some uses that are permitted in the 'LI' district, and as we got to negotiating they wanted to add more uses, so we pretty much ended up with just 'LI' uses except for the asphalt batch plant type thing."

MCKAY "How about rock crushing?"

MILLER "You could spell that out. I don't know whether they are interested in that or not, but if you want to specifically prohibit that, we could say so."

MCKAY "That is two different divisions of the Ritchie Organization. I will ask that of the applicant."

GAROFALO "Okay, then we will hear from the applicant."

GREG ALLISON "I am with MKEC, representing the applicant. As Barry said, we have had a couple of meetings and have come to some agreements on Items 1-8. We are in agreement with those staff comments. I will be happy to answer any questions any of you might have."

MCKAY "The only thing is that if you put in batch plants and asphalt plants, and in the other division have rock crushing."

ALLISON "That is a different Ritchie entity. They are totally separate from the Ritchie development."

MCKAY "So is batch plants and asphalt."

ALLISON "Right. We don't have a problem having those, I suppose."

MCKAY "I don't see why it is even in there to begin with. If it is two separate entities, I don't know why that is even a requirement in there to begin with, but they said you volunteered it."

ALLISON "Yeah."

WARREN "Are you suggesting that we add rock crushing?"

MCKAY "No, not at all. The whole idea of making the rock crushing an issue is the fact that why is the batch plant and the asphalt plant in there when it is a separate company all in itself?"

GAROFALO "Are there any other questions of the applicant?"

WARREN "Would our client object to rock crushing being added?"

ALLISON "I don't think we would..."

MCKAY "I wasn't saying that. I am saying why is that even in there to begin with? That was the only reason I used rock crushing as an example."

GAROFALO "Thanks. Is there anyone else to speak in favor of this application? Is there anyone here to speak in opposition?"

TOM CHANDLER "I own the property at 2624 North Greenwich. It is also where I live. There are actually two homes in the southwest corner. Mine is the northern of the two. Overall, I am not really opposed to the Light Industrial other than I am obviously concerned about some of the things it can do to property values for the two of us that do own that area. I am mostly interested in what is actually going to be put in there. The Light Industrial has a pretty loose restrictions. The only thing they had mentioned putting in was possibly a support area, I believe for Ritchie. They had sold an area that they used for storing equipment and that type of thing."

I imagine though, from what I have seen of their previous location that they really don't need the whole 159 acres for that purpose, so I imagine that they are planning on using most of it for other uses. I am just real concerned about the property values and trying to maintain a reasonable property value and not to have it reduced by some serious eyesores or what is going to be put in. It is just hard to tell at this point, and the Light Industrial is just so loose that it causes me some concern.

The one thing I would be interested in personally would be if, at least on my property, and I think the people next door to us would be interested, if we could almost piggy-back onto this to at least maintain the same zoning so that if we were going to resale it, we wouldn't have to be re-sell it as a residential property so that we might have more marketability for our homes in a commercial type use versus residential."

GAROFALO "Marvin, could you respond to that?"

KROUT "You can't do it as part of this action today because we haven't advertised that area for zoning. Normally we do that at an applicant's request. It is possible for the Planning Commission to call a hearing separate from an application for a future date and have us take the responsibility for doing the notification, providing the title list, not collecting a fee and then you can decide in the same way whether or not the zoning is appropriate.

The only other thing I would say about this is if you zone these properties which have houses on them Industrial, then they will become non-conforming uses. Maybe that is not something that you want to do until you are really ready to sell the property because then you are restricting the possibility of some day rebuilding it as a **home."**

CHANDLER "In your experience, I guess I would ask then, if that were to occur and we wanted to change the zoning, is that usually a problem in a case where it is surrounded, like this, by entirely Light Industrial?"

KROUT "That would be what the courts call arbitrary capricious if we didn't grant you the same or similar zoning."

CHANDLER "Okay. Very good."

WARREN "I like that word."

GAROFALO "That is our in-house lawyer."

MCKAY "Who is that, Ray or Marvin?"

GAROFALO "Is there anyone else to speak in opposition? Seeing none, the applicant has two minutes for rebuttal."

ALLISON "We are okay, unless there are questions."

GAROFALO "You are okay? All right. We will take it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Surrounding properties to the north and east are largely undeveloped and used for agricultural and residential uses. The Regency Park Addition is west of Greenwich and zoned "LI." There is a small rectangular piece of property zoned "SF-6" adjacent to the southeast corner of the application area. The suitability of the subject property for the uses to which it has been restricted. The location of the site along the K-96 Expressway and across from "LI" zoning to the west, makes at least a portion of this area less desirable for residential development. Extent to which removal of the restrictions will detrimentally affect nearby property. The proposed rezoning would permit commercial and industrial uses that would generate increased traffic, noise, lighting, and etc. as compared to uses that would otherwise develop under the existing residential zoning. However, the "LI" zoning to the west and airport to the northwest already impacts this area. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The request is consistent with the City and County's typical zoning pattern of locating nonresidential uses at arterial intersections or freeway interchanges. The industrial locational guidelines of the Comprehensive Plan indicate that such uses should be located in close proximity to support services and provided good access to major arterials, belt highways, utility lines, along railroad spurs, near airports, and as extensions of existing industrial areas. The 1993 Land Use Guide did not anticipate industrial uses in this location since there was an estimated 80 years of industrially zoned land in 1993. However, not all of that land is available or marketable. MAPC recommended updating the plan designates this area as appropriate for new growth within the next 10 years. Impact of the proposed development on community facilities: Neither municipal water or sewer services are currently available to serve this site. However, the City plans for future extensions of water service to this area and staff from both the City and County

indicate that this area could be served with sewer service by one of the two sewer utilities. Depending on the nature of the development that occurs on this property, significant improvements may be necessitated. Without a traffic study to assess these impacts, it is appropriate to limit the traffic generated by development on the property.) I move that we recommend to the governing body that the request be approved, subject to the additional provisions of a Protective Overlay #74 (P-O) district as outlined below:

1. Uses: All uses permitted in the "LI" zoning district except that an asphalt or concrete plant, limited, will not be permitted. Should there be a need for more than 100,000 square feet of floor area of non-"IP" uses, a traffic study will then be completed. The maximum square footage of non-"IP" uses may be increased to 300,000 square feet by an adjustment. The City Traffic Engineer may require that additional traffic improvements be guaranteed to support this traffic volume. The total average daily traffic generated by the uses within this property shall not exceed 8,000 ADT.
2. The transfer of the title on all or any portion of the land included in the development does not constitute a termination of the plan or any portion thereof; but said plan shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with the concurrence of the OCI Superintendent, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal amendment.
3. Minimum setback requirements for all front setbacks will be 25 feet, rear-10 feet, interior side-15 feet, and street side yard-35 feet.
4. Outdoor storage and work areas shall not be located in front yard setback areas, and shall be screened from view of all internal and external streets and other ownership's within and abutting the property.
5. Height: 55 feet maximum height for all structures.
6. Signs: All signs along Greenwich, 29th Street North, and K-96 shall be limited to the standards for the "IP" district in the City of Wichita's sign code. No signs with rotating or flashing lights shall be permitted, nor shall any portable signs or off-site signs be permitted.
7. No building permits shall be issued for any development without municipal water and sewer service.
8. Cross-lot circulation is to be provided for all lots developed for retail, commercial or office uses, through the approval of site plans by the Director of Planning.

JOHNSON moved, **MICHAELIS** seconded the motion.

PLATT "I guess I will vote in favor of this like I did in favor of the previous one, but I am disturbed by both of them in terms of the size of the industrial zoning that we are going to approve in this case and approved in the last case. It far exceeds that of what is needed for the application. I think the speaker mentioned that. And I don't like the idea of not thinking about how we are going to buffer or step down zoning as the staff notes commented on both of them, when we do something like this.

It seems to me that it would have been much more preferable in the previous case, if we had said to the applicant 'when you reach a point where you want to use the rest of it for your school, that is the time to rezone it'. But instead, we are simply putting industrial zoning on rather large pieces of land, which then is going to come back to haunt us as they border other pieces of land. It seems to me that this is one of the dangers of the Protective Overlay concept which changed the old ideas of zoning that made us think about those things. I get concerned about how valid the Protective Overlay will be ten years from now when the basic zoning is industrial. Anyway, that is my comment. As I said, I probably will support the motion."

GAROFALO "I might ask the applicant,...can you come back up? The resident that spoke just before you was concerned about uses. Could you enlighten us on that any?"

ROB RAMSEYER "I am with Ritchie Associates. At this point, we don't really have any specific uses other than a small construction yard to put our farm trucks in that we haul building materials in and a hay barn to park them in at night and then go ahead and fence that. To get that done, we were advised to go ahead and get the zoning. We anticipate, when we do develop this, that it will be very similar to the property to the west, the Regency Park, the property on which we donated the 50 acres to the City for the soccer fields. It will be a mix of Limited Industrial uses, a business park type of setting, which we are developing right now on the other side of the road. Maybe some Office Warehouse, where you have an office in the front, a warehouse in the back, etc. That would be our intent.

One reason we excluded the asphalt is that we have no anticipation of, or probably would not want any of the heavier industrial stuff. We are either owners or partners in the property to the west, to the east, the southeast and the south. So other than the two houses, we really are the owners, partners in, or have option on all the rest of the property surrounding to those directions."

Hentzen returned to the meeting at 3:10 p.m.

GAROFALO "Does anybody have any questions of this applicant? Okay, thank you. I think we have a motion by Commissioner Johnson and a second by Commissioner Michaelis to approve, subject to staff comments. Are there any further comments?"

VOTE ON THE MOTION: The motion carried with 11 votes in favor.
Hentzen abstained. Marnell was not present.

9. **Case No. CON2000-00022** - Faissal Aboy (Owner), Greg Ferris (Agent) request a Conditional use to allow the sale of used cars on property described as:

The West 200 feet of Lot 1, Rhodes Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of West 13th Street between St. Paul and Meridian (2642 W. 13th).

BARRY CARROLL, Planning Department, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to permit used car sales on a platted .66 acre tract of land. The applicant indicates a desire to offer up to 40 vehicles for sale and up to 74 vehicles in the future. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows a sales/office building, a display area, employee/customer parking spaces and a gravel driveway along the north property line (see site plan). The applicant will be required to submit Landscape Plan in compliance with the landscape ordinance when securing a remodeling permit application.

This property is zoned "LC" Limited Commercial and is located on the north side of West 13th Street, between St. Paul and Meridian (see map). There is a chain link fence along the north property line. On the site there is a vacant building and paved parking lot that was a Total Petroleum Station for a number of years until it recently closed. The existing building, 35 feet by 8 feet, would need to be remodeled for an office for the vehicle sales use.

Currently the site has two openings along West 13th Street. The Traffic Engineer recommends one opening on West 13th Street with one opening onto Edwards Street to the west. The closure of one access opening along West 13th Street would remove a point of access and still maintain a flow of customer circulation.

The character of the neighborhood is that of mixed uses consisting of a single-family residence and commercial uses. The property north of the application is a residential home and zoned "B" Multi-Family, the property to the south (across West 13th Street) is a commercial restaurant (McDonalds) and is zoned "LC" Limited Commercial; to the east is a strip shopping center and is zoned "LC;" to the west is a bank and is zoned "LC." The nearest auto sales lots are near Douglas and West Streets.

The Unified Zoning Code requires used auto sales businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet and one space per each additional 10,000 square feet of lot area for vehicle sales, display, storage purposes, plus one space per 500 square feet of building area for employee parking. The site plan shows 20,694 square feet for vehicle sales, display and storage, which will require a total of five (5) spaces for customer and employee parking. The site plan submitted by the applicant indicates that there are six (6)-parking spaces.

CASE HISTORY: The current site was platted as the Rhode's Addition in 1956.

ADJACENT ZONING AND LAND USE:

NORTH: "B" Multi-Family	Residential House
EAST: "LC" Limited Commercial	Strip Shopping Center
SOUTH: "LC" Limited Commercial	McDonald's Restaurant
WEST: "LC" Limited Commercial	Bank

PUBLIC SERVICES: West 13th is a four-lane arterial street with estimated traffic volumes of 18,054 (ADT) trips per day. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Area Treatment Classification Maps of the Comprehensive Plan identifies this location as a "conservation" area. These areas, which are basically, sound physically and viable economically, would be protected from decline by policies which would ensure population stability, and maintain levels of investments, market strength, and environmental quality and neighborhood character. These areas cover a large portion of Wichita, including not only areas with no apparent threats to stability, but also areas where future viability may be questionable because of encroaching land uses or other impacts. Treatment policies and actions would include continuing strict code enforcement, ongoing maintenance of community facilities and prevention of land use conflicts.

The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas,

such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas.” There are no used car sales lots in the area or between Amidon and West Street along West 13th Street.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be **DENIED**. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of West 13th Street are neighborhood serving and do not involve the outdoor display storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned “LC,” Limited Commercial. The “LC” district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale; neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site.
2. The suitability of the subject property for the uses to which it has been restricted: The “LC” district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. West 13th Street carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office or neighborhood oriented service tenants.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other “heavier” commercial uses. West 13th Street is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance.
4. Length of time the property has remained vacant as zoned: This site was an active gas station less than one year ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as “commercial.” The plan contains an objective which states: “Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas.” The Plan also recommends special attention to the visual quality of key major arterials and West 13th Street is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood.
6. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the “LC” Limited Commercial district, the site shall be limited to the sales of used cars. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining “GC” General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with the site plan, which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles. The plan shall be revised to show the closing off of the drive nearest to Edwards.
3. The applicant shall comply with the street yard landscaping requirements of Landscape Ordinance.
4. The site plan shall also be revised to show all parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.

10. The applicant shall erect a solid six-foot screening fence and a solid row of evergreens along the northern property line that is across the alley from residential zoning.
11. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

CARROLL "This is a Conditional Use request to allow the sale of used cars on West 13th Street between St. Paul and Meridian. This was an old Total station on site, there is a bank to the west, and to the east there is a strip center. To the north is multi-family residential. To summarize, we are not recommending approval of this request. We are recommending that it be denied, based on the Comprehensive Plan. There are no other used car lots in this vicinity.

This case went to the District Advisory Board and I think you have a memorandum which indicates that District 6 voted 10-0 to recommend denial. I think you also have letters from a neighborhood association, and a letter from someone who spoke in opposition to this request. However, if you should deem this appropriate, we have listed 11 conditions, found on pages 5 and 6 for your review. I will answer any questions that you might have."

BARFIELD "Could you go back to the first slide? That's it."

WARREN "This is existing on this property now?"

CARROLL "That is correct."

WARREN "How much of that is going to remain? Maybe I should ask the applicant that."

CARROLL "Okay. For a number of years it was a Total gas station. It was vacated about 6 months ago."

WARREN "I wondered how much of this is going to remain."

CARROLL "I think the whole structure will remain."

GAROFALO "Are there any other questions of Barry? Okay, then we will hear from the applicant."

GREG FERRIS "Thank you, Mr. Chairman, members of the Planning Commission. I represent the applicant on this project. I appreciate the opportunity to be here.

To answer Mr. Warren's question first, the idea would be to dress up that building for a sales office and leave the canopy in case of bad weather. We also, and I apologize, Marvin pointed out an inconsistency in our landscape plan on Tuesday and we haven't been able to get it redone to conform more, but the idea is that there are some trees on the west side of the bank and we were going to balance that on our property to also landscape the front and to make this look far superior. Obviously, there would be a screening fence along the backside, which brings me to my first point.

My first point is that this is the way that this property has existed for the last 6 months, and frankly, even when it was a total station, it wasn't all that appealing to the eye. The applicant on this project owns a house that is the first housing development to the west of this on the other side of St. Paul. He also operates a building catty corner from this, which is a vehicle repair business. He will be leasing this to an operator that will then manage and use this site for the sale of used cars.

I want to talk just a little bit of philosophy, since I rarely take my full ten minutes. I might actually do that today and I apologize. What we are asking for is a Conditional Use permit. This property is allowed, if my applicant wanted to enlarge that building slightly and use that for his vehicle repair area, he could do it without any landscaping. As long as he wasn't doing outside repairs, he would be able to use that facility for that. You can put a bar or a tavern here, and frankly that is the reason why vehicle sales are allowed in Light Commercial. It is with a Conditional Use permit and the idea is that there are some things given an area that we should do to a used car lot to make it look different than just a parking lot with cars on it.

The Zoning Code doesn't say anywhere that a used car lot is not allowed in Light Commercial. What it says is that a used car lot or vehicle sales lot is allowed with a Conditional Use permit. The idea is then, what conditions are you going to put on my applicant to allow him to use the property for which it is zoned. It indeed is zoned for a sales lot with a Conditional Use permit.

We are here seeking that Conditional Use permit. We have the conditions that staff has outlined. We are even willing, and I may have not mentioned that from the onset, but we are willing to make the conditions even more onerous by making this a 5-year Conditional Use permit. The reason I say that is that this man lives and operates a business in this area. His goal is to improve the area, not to make it worse. If in 5 years he hasn't done that and he comes back down here and shows you, or whoever is here at that time that it hasn't been done properly, you can then put other conditions on him to make him comply further with what your original goals were or he can decide he doesn't want to do that any further.

So I believe that philosophically we are not talking about this in the same terms as rezoning. This property is appropriately zoned. It just needs a Conditional Use permit and that is what we are asking you to do today. As I look

through the recommendations and findings that they site, while this is and has been a gas station, it will never be again. Gas stations don't go mid-block anymore. Service stations are kind of on their way out mid-block. It is very expensive to put tanks back in the ground, to go back in through the EPA and develop. These are no longer there. You have to be able to do a large volume, large-scale use. It isn't going to happen, it never will happen. You don't see anybody coming in here mid-block to do service repair or gas stations of that kind. It just doesn't happen.

This has only been vacant for 6 months, so the idea that you can say that it has not been vacant long enough, you can't. Look at the site. Now, what are you going to do on that site? Are you going to build in the middle of a very limited commercial area? There is not a lot of depth here, you can't build a big building. They are very restrictive in the amounts of things that you can do on this lot. So I disagree that No. 4 in the findings is pertinent. I will concede No. 5, but reminding you that the Comprehensive Plan is indeed a guideline and if something falls in the Comprehensive Plan, it doesn't mean it should be approved, or if it falls without it doesn't mean it shouldn't be approved.

This area is one of a Limited Commercial area, and that is what we are proposing, a very limited, very small used car lot in this location. It will be limited by the recommendations that we are willing to put in the conditions to the area that is paved, we are willing to landscape. We don't have to under the current ordinance, but we are willing to go beyond the requirement of the landscape ordinance and such as the plan that we submitted to the D.A.B. was beyond, but Marvin pointed out that we had left out one thing, and I wanted to make sure that that was appropriate before we submitted it. This area is appropriate.

Finally, one of the arguments staff made at the D.A.B. meeting that I would like to call to your attention a little bit, is that this is an area that is developed for neighborhood retail uses. We have a Neighborhood Retail category, so I don't know that we should talk too much about that because this is a Limited Commercial, not a Neighborhood Retail. But even if you were going to concede that this is an area that is primarily Neighborhood Retail, what is happening, 20 years ago, most families had one car or two. Now, most families have two cars or three. What is happening is that the used car needs have exploded. We are not all going to drive to East Kellogg or to West Kellogg to buy a car. We would almost like to buy a car from somebody who was in our area. If a used car lot, and I am not afraid of that word, if a used car lot has the appropriate conditions placed on it, in landscaping, in design, in use, then it should be approved in neighborhood areas like this that are entirely commercial. There is nothing but commercial along this area for virtually 2 to 3 miles when you go to the west and include some of the offices to the west. There is maybe one house on the south side of the street down past Sheridan. But this is a commercial area. This is appropriate.

And finally, one of the things that was raised at the D.A.B. meeting was that there isn't a bunch of vacant property in this area begging for people to use it. Therefore, you can develop anything you want here, and this should be denied. One of the arguments that staff has made is that if you have one used car lot, you automatically will have a million of them. Is that bad or good? You can make that opinion based on your own conditions that you put on it. As you put those conditions on it, you can make used car lots look a lot different than the traditional South Broadway or east Kellogg used car lots and that is what we are proposing here.

So since there isn't a bunch of vacant property, as was testified to by the neighbors, that should give you some comfort that this isn't going to cause a proliferation of used car lots in this area. So the fact that there isn't a bunch of them here really is irrelevant. The question here is land use. Your Zoning Code says that I can do this in Limited Commercial if I apply for a Conditional Use permit, and the conditions should be reasonable. The conditions you have, except for the closing, and I haven't talked to Marvin, maybe he could answer the question of why he wants us to close off the one entrance, but if that is a 'make or break deal' we could accept that closure.

The conditions that you want to place on a used car lot, frankly if I were sitting in your shoes, I would put on a few more. You say appropriate landscaping, I would say what kinds of landscaping, those kinds of things. We don't have any problem with that because we are already planning to do far in excess of anything that the Landscape Ordinance would require in this area. Frankly, the Landscape Ordinance doesn't require anything, but we are willing to go well beyond that. But I think that you should focus on the conditions. What conditions are you going to put on a vehicle sales lot, not the zoning, because this is not a zoning case. I would be glad to answer any questions."

BARFIELD "Mr. Ferris, you said if you were over here, you would concern yourself with, as you put it, 'the land use'. But if you were over here, how much emphasis would you put on what the neighbors thought about having this car lot in this location?"

FERRIS "What are the Golden Rules. Are there 9 or 10 of them? About 12%. That is all you are allowed to. Anything more than that, you are arbitrary and capricious. So you have 12% that you can use as what the neighbors' opposition to this case is unless there is a protest petition and then the state law allows you to go beyond that. I did sit over on that side for many, many years, not here but in a different setting, and that is what I put was 12% because that is all you are allowed to. That is all the law allows."

OSBORNE-HOWES "I just want to double-check. Is it true that they could put a bar or a tavern in?"

KROUT "There are several corrections that I would like to make. I can make them now if you want me to, then you can ask the applicant to respond to your questions."

OSBORNE-HOWES "I just don't think that is true."

KROUT "Bars require a Conditional Use just like a car lot requires a Conditional Use. The Zoning Code says that the Planning Commission and governing body may approve of conditions or deny a Conditional Use. It doesn't just say that you can place appropriate conditions on a Conditional Use. It says that you will use the same criteria to decide on approval or denial as you do on a re-zoning case. It also says, not 12% per finding, it says not all of the criteria must be given equal consideration by the Planning Commission or by the governing body reaching a decision.

Also, the inside repair, we triggered the Landscape Ordinance just to correct that, in order to do inside repair, you would have to do a substantial additional to this building that would trigger the landscaping requirements."

FERRIS "Except for a couple of points, Marvin, I wouldn't disagree with you. First of all, I can do less than 50% of that building and do vehicle repairs in there, and still have as many stalls as I have at my other places, so I wouldn't have to. The Landscape Ordinance is 30%, I can still do that. This is a 35-foot wide building and I only need to go back four feet for less than half of it to be able to do that if I wanted to. But believe me, regardless of what he is going to do here, he is going to landscape it because he lives and works in the area.

You are right. When I said a bar or a tavern, I meant a drinking establishment/restaurant that serves alcohol could go into this facility without a Conditional Use as long it served over 50% food. I apologize for that."

OSBORNE-HOWES "There is a big difference between those two. In the rules and regulations, there is a huge difference."

FERRIS "It depends on which one you are by. You are right, in the rules and regulations there is a big difference. As far as the neighborhood perspective, I can cite a few of these places that raised those issues."

GAROFALO "Are there any other questions of the applicant at this point? Thanks, Greg. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition?"

MARY HOLLOWELL "I am here in opposition. I don't know that I have a speech. I live at 1947 North Sedgwick, in the neighborhood. I do not see this as an enhancement. I guess I kind of enjoy all of the conversation about landscaping. I guess that word means different things to different people. Landscaping to the neighbors means we edge, we trim. We do those kinds of things. The existing business that this applicant has, after the little neighborhood the other night where this was denied, then the next day he is out edging and it is no exaggeration to say 'he is edging grass that is 8 and 10 inches. It is over the curb and down and into the street. So just kind of...well, like I said, landscaping means different things to different people. To me, a car lot changes the character of the neighborhood. Suffice it to say that I do not see this as an enhancement.

I don't know what is appropriate. I don't know the procedure, but if we need a petition, I guess I am asking for the chance to do that, or whatever the procedure is."

GAROFALO "Ma'am, are you a member of the Indian Hills River Bend Neighborhood Association?"

HOLLOWELL "Well, I don't pay dues. I live in that area. I don't know if that means I am a member or not."

GAROFALO "Well, we received a fax..."

HOLLOWELL "That probably was from us. Was it from Hollowell?"

KROUT "There was another one. We received an E-mail from you and there was a fax from the President of the neighborhood association."

HOLLOWELL "Okay."

GAROFALO "Mr. Presnall is the President of that association. Do you want to make a statement? That's fine. Is there anyone else here that wants to speak in opposition? Okay, then Greg has two minutes."

FERRIS "I really don't have any rebuttal. I did offer to come to the Indian Hills Neighborhood Association. They were on a very tight schedule that night and chose not to have us come and answer any questions or see if there was anything we could do to make this suitable to them. Unless there are questions, I don't have anything."

GAROFALO "Okay, thank you. We will take it back to the Commission and see what we are going to do."

BARFIELD "First of all, I think I read here somewhere where the closest used car lot to this location is Douglas and West Street. I don't think that is correct. I think there is a couple of those on West Street between 13th and Central. But two weeks ago, we had another case before us for a used car lot on the 1100 block of South Broadway, and I was opposed to that. That one did not have, as best I can recollect, did not have any neighborhood opposition. This one does have several folks in opposition. From my standpoint, first of all, I don't understand, in that particular case, the staff is not showing any consistency. They recommended approving that location on Broadway and yet they are denying this one. I think we should deny this, but I also think the other one should have been denied, too. From my standpoint, I think I will probably support staff recommendations on this."

WARREN "I guess we have these comments that we make each time this comes up. But basically, what we are talking about here is kind of a point of philosophy. It is a point of how we want to look at car lots. We choose, for some reason, to have this perception that an automobile sales lot has to look like the one at 47th and Hydraulic with a big fence around it and ugly as sin. We know for a fact that that isn't true. An automobile sales business can be a relatively attractive business. So, it is again that we are dealing with this perception, and if you want to take that perception of the dirtiest, ugliest old car lot in town and then judge everything by that, I can see where you are standing.

I don't feel that way. I think it is a legitimate, American business and if we have the power of restriction, regulation and control over what kind of an aesthetic appearance it has, then it can be a very attractive business and fit very well in most near any commercial neighborhood. I am very much opposed to denying this application, because I don't think we have really good grounds for it."

MICHAELIS "I would just like to make a comment. I am not sure where I am at on this, but I guess what Mr. Ferris said there at the last kind of bothers me from the standpoint that he did make an attempt to contact and meet with the neighbors and for whatever reasons, they chose not to offer that to him. So that is kind of an indication that, you know, they are just Carte blanche against it without really being willing to listen to it and I think that is kind of disappointing. I think if somebody comes to you and says 'here is what I want to do, and he is why I want to do it, how can I make this work for you?' and you are not willing to listen, I am a little disappointed in that."

DEAN PRESNALL (From the audience) "I would speak to that."

OSBORNE-HOWES "Can I ask, is there someone from the neighborhood association here?"

GAROFALO "Yes, the President is here."

OSBORNE-HOWES "Oh, is that him?"

MCKAY "Why didn't he speak earlier?"

OSBORNE-HOWES "Well, can I ask him a quick question?"

GAROFALO "Will you please come to the podium?"

OSBORNE-HOWES "I just have one question. Are you a representative of the neighborhood association, or were you there?"

PRESNALL "Yes, I am the President of the neighborhood association. I live at 2211 Bella Vista."

OSBORNE-HOWES "The comment from another Commissioner is that you weren't willing to talk with Greg. Can you tell me a little bit about that?"

PRESNALL "Yes. The neighbors did not become aware of or concerned about this matter until over the weekend when I put it on our calendar in the newsletter that this meeting today was taking place. The lady that spoke and I were at the D.A.B. meeting on Monday night.

Monday night, the applicant said he would attend the neighborhood meeting, but the neighborhood meeting was Tuesday night and already had a full agenda of 11 political candidates. So there wasn't time enough then to schedule it. I would say that the neighbors in general are probably making a snap decision, but as I say, they did not become really aware of it until the weekend."

OSBORNE-HOWES "Thank you."

GAROFALO "Marvin has a question."

KROUT "I guess I would just like to remind the Planning Commission that we encourage applicants to contact homeowners' associations before they file, if possible, right after they file, if possible, and not to wait until this sort of last minute situation. So I think the obligation was really with the applicant and that shows that they had a full agenda and they couldn't take this issue. That is not the homeowners' association's fault."

MCKAY "Some political candidates were more important than maybe the future of your house?"

OSBORNE-HOWES "I guess I have a few comments. First, when Greg was talking about the current location and that that had been vacant for a while, he pointed out that it would probably be a gas station again, that it might be a bar, a tavern or what have you. It could really be lots of things. It doesn't have to be a gas station. I don't think that I have to choose a gas station or a bar or a used car lot. I think it could be lots of things. Most of the businesses developed in that area, an area that I am very familiar with, really do tend to serve the neighborhood more. I am also concerned that we continue to talk as if used car lots are somehow allowed by right. They are not allowed by right. We can decide yea or nay, depending. That is why they are required to come before us, the same as any zoning case.

I think it is a question of land use. I think this is an inappropriate land use for this particular site. If we chose this site, if we said that this is okay, given that there are no other used car lots in this area, then that truly does mean that we could look anywhere else in town on any street and say it is an appropriate place for that. The Comprehensive Plan does indicate that this is outdoor storage; that this is different--that this should be looked at in some unique fashion. That is why we have the Conditional Use placed upon it.

And finally, I would like to say that there are no other used car lots in this area. Greg has also said that there are very few vacant lots, none easily developed in the area, therefore there should not be any future requests for used car lots. Well, things are dynamic, things could change, especially if this were okayed. There might be more vacancies in the future if this were okayed. Then, finally, if that is true, then there really is no reason to say that this land cannot be used for anything but a used car lot if the agent for the applicant has made the point that this particular area is rented pretty easily. So there is no way that I would support a motion for this particular request."

WARREN "I might just point out, for the record, that it was suggested here that basically the closest car lot is Douglas and West. I want to remind you that we have a court ordered automobile sales lot at 9th Street and West, as I recall. That is quite a ways from Douglas."

MICHAELIS "Could I ask Mr. Presnall a question?"

GAROFALO "Sure. Sir, would you take the podium again?"

MICHAELIS "Maybe I was a little unfair in my assessment because of the time situation, and if so, I apologize, but by the same token, you made a comment that maybe some of the neighbors acted prematurely or without the proper information. My question is, and this may be a two-fold question to you and the applicant, but would it be in the best interest of everybody to go back and look at this and let you have a chance to visit and let Mr. Ferris have a chance to present this and then formulate an opinion based on all of the facts."

PRESNALL "I think that would be fair. I don't know whether it would change the opinion, but I think the neighbors should have the opportunity to hear something about it. They are placing their judgement, I think, on just the fact that it is a used car lot."

BARFIELD "I can respect what they are saying, but the D.A.B. is comprised of 10 or 12 members of the neighborhood and they have voted unanimously for disapproval. That has to be taken into consideration. It has to carry some weight. These members are appointed by members of the City Council and I think we have to put some weight on what they are saying."

CARRAHER "Thank you, Mr. Chairman. I guess a point of information, kind of a rebuttal to my colleague, Mr. Barfield's comment. I am a D.A.B. member, and I have served on C.P.O., and there are plenty of cases on both side of the issue where the MAPC and the D.A.B. have been in agreement as well as just completely the opposite. So I think it is up to each member to decide how much weight to hold per issue per D.A.B. I would like for you all to keep that in consideration."

MOTION: Having considered the factors as contained in policy statement No. 10; taking into consideration the staff recommendations, the recommendation of the District Advisory Board, the recommendations of the Comprehensive Plan and the opposition of the Neighborhood Association, and the neighbors, I move that we recommend to the governing body that the request be denied.

OSBORNE-HOWES moved, **BARFIELD** seconded the motion.

GAROFALO "Is there any discussion?"

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Osborne-Howes, Warner, McKay, Platt, Garofalo, Barfield, Hentzen and Lopez) and 4 in opposition (Warren, Michaelis, Carraher and Johnson).

KROUT "That means that unless the applicant decides to appeal to the City Council, this decision will be final."

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10. **Case No. ZON2000-00026** - Holland Ventures, LLC (George Holland) applicant/owner; Austin Miller, P.A. (Kim Edgington) agent request a zone change from "SF-6" Single-family residential to "LC" Limited Commercial on property described as:

The South Half of a tract in the Southeast Quarter of Section 29, Township 27, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows:

Beginning at a point 50 rods and 264 feet North of the right-of-way of the Wichita and Western Railroad on the East line of Section 29; thence North 368 feet; thence West 330 feet; thence South 368 feet; thence East 330 feet to the point of beginning.

and

Lots 3, 4 and 5, Block D, Westport Addition, Sedgwick County, Kansas. Generally located north of Kellogg/US 54 Highway and west of Tyler Road.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a zone change from "SF-6" Single-family Residential to "LC" Limited Commercial. At this point in time, the applicant does not have an identified user or a concept plan. The application area is an irregularly shaped tract that is 4.37 acres in size, and is generally located west of Tyler, 200 feet north of Kellogg, east of Byron and south of Belview. The western three-fourths of the site has been platted as Lots 3, 4 and 5, Westport Addition. These lots are zoned "SF-6", Single-family Residential. Lots 3 and 4 have a 50-foot wide drainage easement. The remaining one-fourth of the application area is unplatted with frontage along Tyler. This tract is currently zoned "SF-6" Single-family Residential, but has been approved for "NR" Neighborhood Retail zoning, subject to platting. The Metropolitan Area Planning Commission has approved that plat (Holland Ventures Addition, S/D 99-42), but staff has not been advised by the plat to send the plat to the governing body. A considerable amount of fill has been placed on this tract. The entire application area is currently vacant. The application area has frontage on three constructed streets and one dedicated, but unbuilt street: Tyler Road (a designated 5 lane arterial), Belview (a designated collector), Byron Avenue (a local residential street) and Dubon (an unbuilt local street).

Holland Ventures owns one of the lots located south of the application area (the northwest corner of Kellogg and Tyler) which is zoned "LC" Limited Commercial and developed with a restaurant, office and vacant space. This lot (Payday Addition, Lot 1) does not have enough room to provide the on-site parking needed. As a temporary solution, the applicant obtained a "minor street privilege" which allows him to use Kellogg right-of-way for parking until Kellogg improvements are made. The "NR" request and the plat (Holland Ventures Addition), which would perfect that zoning, was to be a solution to the parking deficit. The other lots located south of the application area are zoned "GC" General Commercial or "LC" Limited Commercial and are developed with commercial and retail uses. Lots to the west and north are zoned "SF-6" Single-family Residential and developed with residential uses. Land to the east of Tyler is developed with retail sales uses that are zoned "LC" Limited Commercial.

CASE HISTORY: Westport Addition was approved in 1953. Holland Ventures Addition, S/D 99-42 has been filed, but not finalized, therefore the "NR" Neighborhood Retail zoning (Z-3301) which has been approved for that addition has not been perfected.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Single-family Residential; residences

SOUTH: "LC" Limited Commercial and "GC" General Commercial; restaurant, office and pool supplies

EAST: "LC" Limited Commercial; convenience store and gas sales

WEST: "SF-6" Single-family Residential; residences

PUBLIC SERVICES: Public sewer and water services can be extended to serve this site. Belview is an asphalt mat, two-lane collector without curb and guttering. Byron Avenue is a sand and gravel local residential street. Tyler is a five-lane curb and guttered arterial with nearly 18,000 vehicles per day. Dubon Avenue has not been opened adjacent to the application area. If this request is approved, the applicant will need to guarantee appropriate traffic improvements and controls (e.g. access control, accel and / or decel lanes, paving and / or signals).

The City is in the process of purchasing land for west Kellogg improvements in this general area. Kellogg improvements will impact property along the right-of-way and it is good planning to evaluate land use needs once the remaining land configurations are known. Staff is advised that once Kellogg improvements are completed, it is the applicant's intention to purchase any surplus land south of the application area with frontage along Kellogg that the City may offer for sale.

CONFORMANCE TO PLANS/POLICIES: The plan depicts this area as appropriate for "low density residential". The land use category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. Commercial locational guidelines indicate that commercial uses should be located: adjacent to arterials or major thoroughfares; in coordination with mass transit services, high-density residential, employment or other intensive uses; utilize site design features which limit noise, lighting and other activity so as to not adversely impact surrounding residential areas; and in compact clusters. Commercial uses should not feed traffic directly onto local residential streets. New "planned retail" zoning districts to replace current commercial areas should be developed as planned centers of various sizes as indicated in the locational guidelines. This area is identified on the *Area Treatment Classification Map* as a "conservation" area. Conservation areas which have sound structures and are able to maintain economic viability and which should be protected from decline by actions which would insure continued stability.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **DENIED**. Rezoning of some or all of this land may be appropriate eventually, due to its proximity to the planned interchange of Kellogg and Tyler. However, development that abuts so much residential street and lot frontage should be "planned" with appropriate use transitions, buffers, etc. to protect the remaining residential area. The awkward shape of this application area does not lend itself very well to a well planned, unified development. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning on two sides of the request is "LC" Limited Commercial or "GC" General Commercial while zoning on the remaining two sides is "SF-6" Single-family Residential. Uses mirror the zoning pattern in that retail and service commercial uses and residential uses exist adjacent to the site. Currently all non-residential zoning is confined to those parcels which have frontage along either an arterial or expressway.
2. The suitability of the subject property for the uses to which it has been restricted. The "NR" Neighborhood Retail recommendation, subject to platting, on the property fronting Tyler is appropriate as that tract has frontage on an arterial. However, the remainder of the application area zoned for "SF-6" uses does not enjoy that advantage. None of these three lots (Lots 3,4 and 5, Westport Addition) has frontage on a major street, and they abut residentially zoned and developed lots. These westernmost lots could potentially develop for residential or less intensive nonresidential uses (school, church, office) than are permitted in the "LC" district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Changing the single-family zoning on the three western most lots would significantly impact the existing homes located to the west and north by introducing noise and traffic to Belview and Byron. This area appears to be a stable residential area. Without benefit of a concept plan and a development scheme, approval of this request would result in the destabilization of the residences in this area. Transition areas between residential uses and nonresidential uses must be addressed thoughtfully if both sides are to benefit from a zone change.
4. Length of time the property has remained vacant as zoned. The property is currently vacant. In 1997, the site had a home and an orchard on the three easternmost lots, while the westernmost lot was vacant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan: This area is identified on the *Area Treatment Classification Map* as a "conservation" area. Conservation areas which have sound structures and are able to maintain economic viability and which should be protected from decline by actions, which would insure continued stability. The plan depicts this area as appropriate for "low density residential". The land use category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. Further, the majority of this site does not comply with commercial locational guidelines since it lacks frontage on major streets and would introduce nonresidential traffic into a residential area.
6. Impact of the proposed development on community facilities: Traffic would increase at this location, triggering the need for traffic improvements at the time of re-platting. Drainage may be an issue given the existence of the 50-foot drainage easement across part of the application area.

MILLER "The application here is an irregular shaped tract. There is kind of a complicated background on it. There is a building here that has the Longhorn Supper Club, and a paving contractor, Holland Paving, and I think the west end is vacant and is available for rent. The same people, Holland Paving, it is my understanding, are purchasing or own this. About a year ago or so, they came in and got 'NR' zoning on this tract here (indicating), subject to platting within one year. That plat has not been completed. We have advised them that they probably should go ahead with that even though it was supposed to have been completed back in January.

Because what is going on here is that they don't have enough ground to meet their on-site parking requirements, so they are currently using a minor street permit for right-of-way that the City has purchased and will ultimately use for the Kellogg improvement project. At the time that this site was rezoned 'NR', that was the reason for getting that zoning was so they could be able to have enough off-site parking to support the building here. So irrespective of what happens here today, they probably ought to go ahead with that case anyway.

So even though this is currently zoned 'SF-6', it is approved for 'NR' as long as they get their plat done. The adjoining properties, as you can see, the site to the south is 'LC' and 'GC' properties. To the west and to the north are all single-family, and then across Tyler are 'LC' Limited Commercial uses. (Indicating) This street is not open today. It is platted but it is not open. It is our understanding that the City has purchased or is in the process of purchasing all of these properties from this location down to the Cowskin Bridge. Once the Kellogg project is done, then if there is surplus land here that is left over, then that would be put up for sale.

In talking with Engineering, they are not sure what shape or configuration that property will be once that is done, or how long it will take to determine exactly where the line will be drawn--it could fall on any one of these properties, but at some point, whatever is left that is able to be surplussed would be put up for sale and it is our understanding that the intention here, for this applicant, is to try and tie all of this together, if and when that land becomes available, so that they would then have a property that has considerable frontage along improved Kellogg or the Kellogg access road, basically, is what it would be. So that is kind of the background on why this is where it is and what is being requested.

Staff is recommending denial for a couple of reasons. One is: until the Kellogg project is completed and we are sure what kind of land is left over in terms of how big and the frontage, it doesn't make a lot of sense to be granting 'LC' zoning that is so far removed from a major thoroughfare. (Indicating) This street is an asphalt mat without curb and gutters. This is a sand street, and as I said before, this street doesn't go through. These are all homes in here, and the Comprehensive Plan does not support introducing non-residential traffic into residential areas. From our perspective, the request is a little

premature to be trying to insert 'LC' zoning this far into what is currently a residential area. There is a house there as well, although one would suspect it may not be there all that long. Certainly these other homes are nice homes and are in good repair."

MCKAY "Would you go back to the zoning map, Dale, please?"

MILLER "All of the details on why we are recommending denial are found on Pages 4 and 5. But in general, again, we think it is premature, with this area being surrounded by single-family homes, that the irregular shape here is difficult to work with, and if it were approved, you would be sticking a lot of 'LC' zoning adjacent to single-family uses at a time when we are not sure, without frontage on a more substantial road than just residential type streets that it makes good sense. In our opinion, it would be better to know what is going to happen with these tracts once the Kellogg improvement is done and who actually owns them."

JOHNSON "Dale, if that whole piece was zoned and it is going to be platted in one lot, or two lots, that would front off of Tyler, how would that be different than what is right across the street?"

MILLER (Indicating) "Do you mean what is over here? It is not surrounded by single-family homes."

JOHNSON "Let's take the lot even farther north on the east side of the road. That has residential on the west, on the north and on the east."

MCKAY "Not on the east."

MILLER "But I would argue that Tyler is somewhat of a buffer for the stuff to the west. That is a fairly wide street."

JOHNSON "I am just saying how is that different if you are on the west side of the street or on the east side of the street. The street is the same width. I can see not wanting to have access off of that residential street. If they didn't have the frontage on Tyler. That is the only thing I am trying to find out is why is it different on the west side than the east side?"

MILLER "Well, I am not sure--as I said they have 'NR' here approved. They originally asked for 'LC' at that time and this Commission turned them down and gave them 'NR'."

JOHNSON "Which I think at that time that house was there and some other things. The orchard was still there."

MILLER "Our position is that just is just premature to be adding this much 'LC' with no direct frontage on an arterial street with such a small access point and it is going to be difficult to work around."

WARREN "Are they under some kind of pressure as a condition of parking? Are they under threat of some citation for being out of compliance?"

MILLER "No, as I understand it, the project is supposed to start in, I believe, October of 2001. So they would have time to go ahead and perfect that zoning if they can get that plat done. So as far as I know, there is no pressure on them, other than once they start that project and lose their minor street permit, then they would be in violation of their off-street parking requirements."

WARREN "Assuming then that they own or have right-of-title to all of this land, they could potentially go ahead and plat it and zone that one piece 'LC' and leave the rest of it for a later zone."

MILLER (Indicating) "Do you mean this particular piece here?"

WARREN "Yeah, and then the rest of it could be left for a zone change at a later date."

MILLER "Yes."

WARREN "I guess I am thinking that I hate to see them have to have two plats."

MILLER (Indicating) "Well, this area is platted currently. These are three platted lots. This one is the only one that is not platted."

WARREN "Oh, I see. So they really don't have to plat at all."

MILLER "Right."

GAROFALO "Okay, any other questions?"

OSBORNE-HOWES "Just a quick point of clarification. When in 1999 did we approve that 'NR'? It seems to me it hasn't been that long ago."

MILLER "I didn't put the exact date on here."

KROUT "It must have been early 1999."

MILLER "Yeah, it would have been January, probably, because the plat was due in January as well and if we gave them a year."

GAROFALO "Dale, show me again the area that the city is going to be working with. Does it go clear up?"

MILLER "The Property Manager has told me that we are in the process of buying all of these lots from this location west to the Cowskin Bridge."

GAROFALO "And none of that 'LC' there?"

MILLER "Right. None of that. They already negotiated that deal."

WARREN "That corner is 'LC' isn't it?"

MILLER "Right. It is there, but we are not buying that. The City owns this right-of-way on the front."

GAROFALO "All right. Let's hear from the applicant then."

KIM EDGINGTON "I am with Austin Miller for the applicant. Just to clarify that along the frontage they have already dedicated 70 feet for the right-of-way."

HENTZEN "On what street?"

EDGINGTON "Along Kellogg. (Indicating) Along here. This is where the 70 feet has already been dedicated. We have spoken with Property Management about this and their intention is most likely to maintain that 70 feet along the frontage of those two lots and to surplus the rest of those lots, which our applicant has already talked with Property Management about the purchase of the surplus on those."

In general, the applicant's intent is to unify this development into one parcel. It will eventually be re-platted. I appreciated your comment, Commissioner Johnson, because it is a situation very similar to what is going on on the east side of this street. The applicant has approached this property owner about this property. The house there is vacant. It has been now for well over a year and the property owner was offered a substantial price for this and has not yet come to an agreement on selling that property, but it is Mr. Holland's intent to, at some point, purchase that property to unify it with this entire development and provide for some more frontage along Tyler.

I think the main point that I want to make here is that the development character of this entire area has changed dramatically in the last year and a half. We have seen a lot of development occurring to the east of Tyler and as far as our commercial locational guidelines, there are a number of factors that are well-suited to having commercial at this location. It is adjacent to a major thoroughfare. The Kellogg/Tyler interchange will be happening and even though it is in the future, it is not that far into the future. Therefore if this zoning is to be appropriate at some point in the future, our applicant would like the opportunity to assemble these properties into one clean unified development rather than having some piecemeal parcels on this, and eventually, it will be such a size that it will require a Community Unit Plan.

Our Zoning Code sets out some specific guidelines if there are adjacent residential properties, and we feel that those will address the issues of any adjacent residential very well and have done so all over the City. Another of the commercial locational guidelines is that these be near major thoroughfares, which we are; the nearness to transit routes, which this is; and we are willing to look at access controls along these residential streets so that there will not be any traffic fed onto the residential streets. But we would appreciate you looking at this in terms of the changes that are happening in this area. The transition that is currently occurring and that is going to continue to occur, because of the development of this interchange and the fact that we will have the opportunity at some point for examining further frontage along Kellogg.

We realize that the applicant needs to do something with this parcel. He has been advised to pursue that plat that was done through another firm, but he has been advised to go forward with that in order to maintain the zoning that was already granted on that. I know in the staff report there was a comment made that the area could develop for less intensive uses; however, it has remained vacant for over two years now, and there apparently has not been a demand for any of the types of uses that were recommended as possibilities on this development. There are traffic improvements already being made along Tyler, and again, significant improvements that will happen with the interchange improvements.

We disagree that this entire area is far removed from the Kellogg and Tyler interchange. (Indicating) Over here we have 'LC' that is much farther removed from this area, but has been granted and approved, and shares many of the similar characteristics with residential properties to the north, and is a successful development with the controls that have been put in place with screening and landscaping buffers. I would be happy to answer any questions that you might have."

GAROFALO "Are there any questions of Kim?"

MCKAY "Kim, the road that runs into that behind there. That isn't a frontage road, is it?"

EDGINGTON (Indicating) "This one right here?"

MCKAY "Yeah."

EDGINGTON "No. That is not even open. The intent, at some point, is to vacate this portion of that street. The street dead ends right here."

MCKAY "One of the biggest concerns staff has is being into residential so deep. Has your applicant considered dropping off the little triangle piece, or almost triangle piece?"

EDGINGTON "This one right here? Well, the intent is, with that, and vacating this street, is to allow some deeper frontage here along Kellogg. Because once the 70 feet is taken off of right-of-way, it makes for some lots that are fairly narrow."

MCKAY "I understand that, but I am just saying that this is a step by step situation. It was just a question."

EDGINGTON "That is something that we would be willing to discuss."

WARREN "Just a question of interest. Is there going to be an on/off ramp off Tyler from the new Kellogg?"

EDGINGTON "I don't know the answer to that question."

PLATT "Along the same line as Mr. McKay, you commented that the owner will, in the future, be consolidating a huge amount of that and coming in for a Community Unit Plan to develop it. What is the purpose of the request today, then?"

EDGINGTON "Well, at this point, it is just to try to assemble these parcels with the underlying zoning, which is going to allow him the ability to market this property to seek investors and possible tenants for this, and to, at some point, create what I think is a goal for all of us, to create some unified commercial development that is going to be clustered here rather than some piecemeal occurrences on the separate lots."

OSBORNE-HOWES "That was one of my questions that George asked. Why not just hold on until you have all of the property? I guess I am a little confused as to why you are coming for this now."

I just want to get a point of clarification. I thought I heard you say that the zoning that was requested or granted last year, there must not be much need for 'NR', because it wasn't developed over this last year and a half."

EDGINGTON "Well, the request was so that they could put parking on there. Right now, they have a minor street permit to park in this 70 feet, so when they can no longer use that, they will need to move their parking."

OSBORNE-HOWES "So there is no reason that that would have been developed unless it would be for parking?"

EDGINGTON "Well, because of the fact that at that time, the applicant didn't own any additional property. He only owned this lot."

OSBORNE-HOWES "And that is the reason why nothing has been done with that, because he has acquired more and he has different plans now?"

EDGINGTON "Right. Based on some of the changes that are happening at this intersection."

GAROFALO "Okay, are there any other questions? Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? Okay, ma'am."

KATHLEEN BOOHER "I live at 651 South Callahan. (Indicating) This residence right here. I am a new homeowner in the area, and I am objecting to this for many reasons. For one, the value of my home. Since the orchard has gone out, when they looked at the values of homes in this area, they did increase the value of my home. I took pictures of the area that used to be the peach orchard and when I went to dispute that, they did not, in fact, increase the value of my home because of the appearance of the lot currently."

My other concern is that you discussed the difference between the industrial on the east side and the west side. There is somewhat of a buffer. This land right here (indicating) is owned by a church. It is all one church, so we are buffered from the traffic on Tyler and the other commercial locations. Since they installed the light there at Bellview and Tyler, the traffic has increased tremendously. There is a significant amount of more traffic. There is a lot more noise. The orchard did decrease the noise from Kellogg, but since that time the noise has increased tremendously. I believe that the reason it has been vacant so long is that everyone is aware of the future developments happening at Kellogg and Tyler and no one is really interested in investing in that until the time when that is completed."

I was looking at some of the things here in this report and it said that a considerable amount of fill has been placed in this tract. They filled it with construction by-products. There is a lot of asphalt and concrete and other items that they have put into the ground. We are all on a well system. They said that they would have public access to water services, but everyone here is on a well. So that concerns me that they are putting those things on the ground. On the second page, it says 'does not have enough room to provide on-site parking as needed'. In my opinion, and I am a business student, if you open a business, you are going to assume that your business is going to continue to grow and you are going to take

that into consideration when you purchase property. I understand that maybe they didn't assume that they would grow so much, but that should have been a consideration.

Under conformance, it says 'to utilize the site design features, to limit noise, lighting and other activity so as not to adversely impact the surrounding residential areas'. Well, they already are. The dust that blows. The look. Like I said, the value of my home is not going up, it is not going up at all. And it also says here under conformance 'should not feed traffic directly into local residential streets'. They are. There is a lot more traffic there than there used to be.

Another item, Item No. 3. It says 'the extent to which removal of the restrictions will detrimentally affect the nearby property'. It will detrimentally affect my property. It already has. And last, on No. 6, 'impact of the proposed development on community facilities'. It says 'traffic would increase at this location, triggering the need for traffic improvements at the time of replatting', and then specifically 'drainage may be an issue, given the existence of the 50 foot drainage easement across the part of the application area. To date, since I have lived in this house; I moved in a year and a half ago, with just the rain in the last few years, it has nearly flooded my house already. The drainage there, although I believe it is a good system when there is heavy rain, it does get close to my house and I am really concerned that if they change this suggested area that the drainage is going to be much worse and the chances of my house flooding are going to increase.

That is all I have. I am just really concerned about the traffic, the noise, the looks. I know a lot of the neighbors couldn't come today because they work, but a lot of us would be interested in maybe converting that land into a park. There is no local area for the kids to go and play in. There is no park, there is no playground. There is nothing there. The kids hang out on street corners at night because they have no place to go. We feel that that would be a good place for beautification, rather than Light Commercial."

HENTZEN "You mentioned you were on water wells out there?"

BOOHER "Yes."

HENTZEN "That is for your household water?"

BOOHER "Yes. And we have been told by the City that we cannot have access to the Wichita water system, which surprises me that they would."

HENTZEN "Are your houses in the City?"

BOOHER "Yes."

HENTZEN "How long have they been in the City? Do you know? Twenty years?"

BOOHER "I don't know."

GAROFALO "A long time."

HENTZEN "Okay, thank you. It's wonderful being annexed, isn't it?"

GAROFALO "I don't understand that. I was surprised when she said they were all on wells."

Man from the audience "We have been on well water out there for 30 years."

GAROFALO "Thank you, ma'am. Is there anyone else to speak in opposition? Ma'am."

DEBBIE DEGRANT "I live at 1229 South Byron, which is right across the street. I am on well water, too. We all are down there. I live on the dirt road. I am not so much concerned with anything but the triangle. We have a problem with people driving down our road very fast. It would bring in quite a bit of traffic. Two weeks before we got the notice in the mail, we had just started a new addition on our home, which we have already put \$20,000 into. We had thought about moving, but we really like our neighborhood and we have been real happy there for over 10 years, so we decided to put more money into the house. New heating and air, a big slab, which we have now put the construction on hold other than that slab.

As far as Tyler, there is quite a bit of difference between the development on the east side of Tyler and the west side of Tyler. The people that do own the house at the corner of Bellview and Tyler have been working on it, we have seen them over there. I think they are going to rent it. They have been making improvements on it.

The City, as far as Kellogg, they did mention that they might just use that like the strip parks like they have over on Oliver and Kellogg instead of making it skinny, you know, office space or whatever, as far as reselling it goes. The drainage problem, I am sure the City of Wichita can work around that, but we do have ditches in our neighborhood, we don't have storm sewers or anything like that.

It is really just that little triangle I have a problem with. As far as what is on Kellogg, I don't think that would be a problem. If they don't have access from the back part, they shouldn't bring more traffic into the neighborhood. But I live in a different area from what she does. She lives north and I live south. That is about it."

GAROFALO "Are there any questions?"

OSBORNE-HOWES "Can you show me where your house is, please?"

DEGRANT "There it is. Right there."

OSBORNE-HOWES "Have you been contacted by the applicant?"

DEGRANT "No. Huh uh. The letter we received was just on this hearing here."

OSBORNE-HOWES "Okay, thank you."

GAROFALO "Are there any other questions of the speaker? Thank you ma'am. Is there anyone else to speak in opposition?"

HARRY MOORE "I live at 620 South Byron Road. (Indicating) Right here. There is a Big Slough that comes right through here like this, and it comes down and drops through here. If it would come through here, I don't know what he has done, but the Slough comes through here. There is only about 30 or 40 feet in there. I don't know what they could put in there with that Slough separating it. They could come right in here like this and let this all be a parking lot. That would be fine. But this right in here, I think they could make a beautiful program of some kind out of that.

Like I said, we have a dirt road and they have torn this road up here with the heavy trucks coming in there with the asphalt and stuff. They have torn it all up. I suppose they are going to have to come in there and re-do that road. There is no curb and gutter there so they have run up over it and torn it down."

OSBORNE-HOWES "Don't they need some approval to do that filling?"

KROUT "Probably with the extensive fill that has occurred there, they really should have been required to get permit from Central Inspection. That would require some drainage and grading plans to be prepared for approval."

MOORE "But I think they could create a buffer zone in here by just running this like this and let this here frontage here use that and make the buffer zone in there so the neighborhood won't be so filled with noise and everything. The noise has gotten terrible since they have taken all of those trees out."

JOHNSON "Sir, how long did you say you have lived there?"

MOORE "Twenty years."

JOHNSON "So you were there when it was the orchard?"

MOORE "Yeah."

JOHNSON "And also the corner at Tyler where the Longhorn is now was..."

MOORE "Right. That was a hardware store there at the time."

JOHNSON "It probably wasn't in too good of shape?"

MOORE "The hardware? No, they really didn't do that much to that. They added a little top decorations to it and a few doorways."

JOHNSON "Would you say it is any better than it was?"

MOORE "Noise-wise, no. It is an eyesore. The minute you pull out off of Byron onto Bellview, it is an eyesore from there plumb to Kellogg. Dirt blows down there at 90 miles an hour. I think there ought to be some kind of beautification set up there, trees or something. Let them have the park in there that they are wanting and make some kind of beautification program out of the rest of it."

GAROFALO "Thank you, sir. Is there anyone else to speak in opposition? Seeing none, you have two minutes, Kim."

EDGINGTON "Thank you. I think I would just like to reiterate a couple of points that we made, especially that we are willing to grant full access control along the north and west lines of this property in order to eliminate any traffic concerns along the residential streets.

I did want to mention that we have had significant interest expressed in this property by numerous brokers in town as this being a very desirable location. The applicant has gone in and made some improvements to the building that is currently there. If you are familiar at all with the building that used to be located where the Long Branch Restaurant is that it is a marked improvement. We would be willing to have a Restrictive Covenant or a Protective Overlay to grant these access controls or to also look at the issue of any buffering necessary. We did want to point out that in the staff report that staff has recognized that eventually this is probably an appropriate zoning at this location, so therefore, we expect that if it is

appropriate in the future that granted the pace with which things are changing out here that that may be a lot sooner than later, and that the applicant be allowed to go ahead and go forward with the development of this property.

I know that discussion was one thing that was brought up, and we have spoken to Engineering about a stormwater system being put in place through petition and that can be done since that is a public easement through that area. But again, we just want to stress the fact that the way this whole area has changed, and some General Commercial was granted to the north and east of this property where The Merc is and for their outdoor storage, so the entire character of this development is in keeping with the activities that are currently going on and allow for some unified development of this property. I think we have seen that so far the buildings that our applicant have put up have been nice aesthetically pleasing buildings and he intends to continue that in the future."

MICHAELIS "Kim, the four lots that are just to the west of that, the two running east and west and the two running north and south, are those currently residences?"

EDGINGTON (Indicating) These right here?"

MICHAELIS "Yes."

EDGINGTON "Yes, they are."

MICHAELIS "Has your applicant made any attempts to purchase those properties?"

EDGINGTON "I think there have been some conversations with them. I don't know that it has been with all of the property owners there, but I think there is a desire to pursue the possibility."

MICHAELIS "The reason I asked that question is because it seems like the area of concern here is that triangle to the south. It seems like one of two things needs to happen, or maybe both. The street needs to be done away with and your applicant needs to purchase the Kellogg property to make that a viable part or the acquisition of those to the north, and you made reference a little bit ago to the fact that he may be receptive to taking off that triangle at this point in time and including that with a possible later application?"

EDGINGTON "I don't know that I stated that precisely, but the fact that we would be willing to grant the complete access control along here so that it wouldn't affect any of the traffic along there. Also to do any buffering adjacent to residential. But he has approached these and we feel that that would make the most sense, using streets as somewhat of a buffer between the commercial."

MICHAELIS "I agree with that, but where I am coming from, I guess, is it seems like most of the contention is that little part. If it would be better to withhold that part at this point in time and include that in with the other part when it is obtained and proceed on with the other part that he would have a preference one way or the other."

EDGINGTON "I think we would like to get as much as we can at this point in order for him to go forward with the marketing of this property."

GAROFALO "Are there any other questions of Kim? Okay, thank you. We will bring it back to the Commission."

HENTZEN "First of all, I would like to tell the Commissioners that I live just west of this area in Miles Lakewood Village, and have visited with the City Engineers and the Property Management people about what is happening out there. Just generally, the railroad bridge is coming out and the two roads going east and west towards Maize Road are moving to the north. Down our way, on west of Seville, on west of this area, they are going to use about half of the Davis Moore property where this body, before my time, approved a car lot that never went in. The remnants of that are not going to be very wide down there on Seville, but the property management people of the City are trying to buy all of those properties along Kellogg. They have not been very successful with the existing businesses. Now the empty lots were easier for them to get title to. They don't have title to very many of those lots yet. They may have to condemn the land to get it.

But we have asked the Engineer and we have asked the Property Management people how about the remnants. I know this owner on this corner is very interested in the remnants up there close to the Long Horn Café. In fact, it depends on how much land is left as to whether it would be useful for anybody else because it is already zoned General Commercial. I can tell you that in our discussions with the City, down our way, we have asked them to put in a privacy wall like they did out east on Kellogg. A masonry wall to divide the residential area from the commercial area. I'll tell you, I just don't think they know, or anybody else knows if they are going to try to sell those remnants as commercial uses or whether they are going to, like I said, landscape them. But I think that all of those people, all of those residences to the west, all along that diagonal, I think they ought to insist on this wall, I think it is 8 to 10 feet out east, and to do some of that beautification along there. That is going to go all of the way to the Cowskin. I think the two areas, one where I am living and where these people are living, should kind of be thinking about that.

I do want to say something about what is written here, and a couple of the remarks by the staff. They talk about these 'westernmost' lots. That is kind of that area there where the arrow is. Those two and the two south of it, could potentially develop for residential or less intensive non-residential uses as a school or a church. You are out of your cotton pickin' mind. You couldn't get enough parking places to put a school or a church in there. So, that reasoning is not good. Then later, in Article 5, it says the Plan depicts this area as appropriate for low density residential. I challenge any of you to lay

your money on the table and take out a permit to build a house there. There is no way that there is going to be a house built in the territory we are talking about. It is ready for commercial development and hopefully it will be a nice development. But to try to tell us that it should be used for residential or a church or a school, I just don't know what kind of reasoning you used.

One final thing, I happen to know the guy right where the point of the arrow is. Let me tell you how well I know him. He has worked for me for 30 years. He told me when I asked him about this, how he felt about it, or how it would affect him. He said if it goes to commercial zoning, I think it will help my house'. Somebody is going to buy those four houses some way or another, and they should. They should separate both on the west side and the north side from the residential area and dump all of the traffic onto Kellogg or onto Tyler. That is what should happen. I can't speak for him, but I do know how he feels. So with that in mind, I am wondering if we shouldn't approve the request. I will make that motion at the proper time."

MCKAY "I think it is inevitable that this corner is a prime commercial location. I do have a problem with the little triangle piece going on to whatever that is, Byron Avenue. I also have a problem with the four houses or the four lots to the west becoming commercial. I would like to see where the property line is across the back going straight south down to a non-existent road at this time; that to the east, even including the one that is not owned by this person now being commercial and step down the zoning if and when those houses ever sell to that. I can't support the motion with the triangle in there, but I am not opposed to commercial going in on that corner. I think we are encroaching too much on the residential with the triangle."

GAROFALO "Well, there hasn't been a motion made yet."

JOHNSON "I know that we had this case in front of us before, and I wish we had those minutes, so I probably don't even remember how I voted, but I think at that time, we were dealing with one lot that was facing Tyler for a single use and basically it was for a parking lot. We didn't know at that time when the Kellogg expansion was going to come through, we didn't know about the Davis Moore Chevrolet deal, and I am not sure we knew about the Home Depot at that time, or it was real close to about that time. So from my point of view, I was concerned about it because we were going into a residential area, he didn't own the property to the west, he was trying to acquire the stuff to the north. But today we know he has an existing business, he has invested some money in the deal. The Kellogg deal is going to come about. I wish we had more information on what was going to happen to that property to the west on Kellogg, but since we don't, I am of the same opinion. I have a little bit of a concern with the triangle. If we knew that that was going to cut back in there 70 feet and he was going to acquire them and vacate that street, then the triangle is a different story, but we don't know that today. So I have a problem with the triangle. But the rest of it doesn't look any different to me than what happens at Ridge and Kellogg or Maize Road and Kellogg or whatever. They are commercial corners."

HENTZEN "Can I ask Kim another question? Do you think the applicants could live with the request without the triangle?"

EDGINGTON "That's a loaded question, isn't it? At this point, I think that we could look at that and then see what is going to happen on some of the rest of this development in the future."

JOHNSON "I guess the other thing is that I also like the idea of the applicant agreeing to some kind of an overlay or something where there wouldn't be access off of those residential streets."

KROUT "Does the applicant have an objection, whatever the area that is approved to replat the property that is approved for 'LC' zoning?"

EDGINGTON "With the one year to do it?"

KROUT "With a potential to extend that."

EDGINGTON "I don't think we have a problem with that. His intention is to eventually assemble all of the properties with the knowledge that it will all need to be replatted at some point."

MCKAY "Mr. Chair, with that, I think with the permission of the applicant I think we ought to defer this and let them set down and come up with a plan and review it with staff. With some ideas."

GAROFALO "I would buy that."

KROUT "That is a waste of time."

MCKAY "It's a waste of time? Why?"

KROUT "Well, what is the plan? I mean, you know that there is not a plan. There is no real plan until they assemble more of this property. We are suggesting that until there is a plan, this is just short of 6 acres, and you would require a CUP normally if it was 6 acres, and you would have required 'a plan' and you would require buffers wherever the residential was left over, and masonry walls and landscaping. How we did Home Depot was a whole lot different than this. This is incredible that the Planning Commission is granting zoning with a configuration like this, with no plan at all, and with all of the uncertainties about the future of the area along Kellogg."

Maybe the only reason to zone is that it gives them an opportunity to market the property because they can show that it is red instead of white on the map, but this is no plan. How are you going to develop a plan for a tract with that configuration? They don't have a plan, and they are not going to have a plan in two weeks."

MICHAELIS "I take exception to that. I really do. I don't think that is the point. The point is does this property conform with the guidelines and uses for commercial zoning. If you look across the street to the east, it does; if you look up the middle of the street, it does; if you look south it does. Every direction you look, it does."

KROUT "The Comprehensive Plan...."

MICHAELIS "It's on a major arterial, it is on a freeway."

KROUT "The Comprehensive Plan calls for planned and unified development. I heard Kim use the word unified a number of times. There is nothing unified, there is nothing planned about this tract. There is no plan. The Comprehensive Plan said, 6 years ago--maybe you want to revisit it--the Comprehensive Plan said when you are abutting residential, especially if you are abutting residential on two or three sides, that you come in with a plan, that you are more sensitive to issues of lighting and circulation and uses. Typically on CUPs, we limit the uses that are adjacent to residential so that we don't have overhead doors of auto repair shops facing peoples' back yards, so that we don't have the fast-food stores with the speakers blaring into people's back yards. This is ridiculous...."

MICHAELIS "But Marvin, that is..."

CARRAHER "Mr. Chairman, point of order. Point of order. Please. Mr. Michaelis had the floor. He was finishing his point. Now, I understand that there may be some passion to this, but there is parliamentary procedure that needs to be followed. I'm sorry, but the Director was way out of line, not maybe with how he feels, but how he approached the comments."

Now, I believe that Mr. Michaelis had the floor and should be given the respect to finish his comments. With that in mind, I would like to yield the floor to Mr. Michaelis for such a purpose."

GAROFALO "Okay. Mr. Michaelis."

MICHAELIS "Thank you. Part of what I was going to get to is that we just sat here and approved 100 and some acres of zoning without a plan, so it is not always that we have a plat and plan to go with a zoning request. This is simply a zoning request and we have to look at it as does it fit the criteria that that requires. I think that is utmost."

OSBORNE-HOWES "Just a calm point here for a moment. Marvin got to part of my concern before I was able to say anything. Yes, I think that 'LC' might be appropriate for this corner. I am not sure it is yet, and I am a little concerned about the lack of any planning as part of this. I am also concerned that the whole piece....there is nothing that really can be marketed yet because they don't have all of the pieces with which to do it. I guess I am not ready to vote in support of the 'LC'. I may be, down the road, but I am not today. I don't really see a plan before us today."

MILLER "A point of clarification on the 159 acres that the Ritchies did. That was for 'LI' and we can't ask for a Community Unit Plan on 'LI' zoning, but we can on 'LC' zoning. That is the difference."

OSBORNE-HOWES "I guess I would like to mention, too, that I really would feel much more comfortable if we were looking at a CUP, and we are not. For that reason, I don't think I could support this zone change at this time."

LOPEZ "In order to move this agenda up or down, I am going to make a motion."

MOTION: That the Metropolitan Area Planning Department recommend to the governing body that the request be denied, subject to staff comments.

LOPEZ moved, **OSBORNE-HOWES** seconded the motion.

SUBSTITUTE MOTION: That the request be approved for "LC" zoning without the triangle piece.

HENTZEN moved, **MICHAELIS** seconded the motion.

GAROFALO "That is not including the little triangle piece to the south and west."

HENTZEN "Could I ask for information that before anything is done in the way of construction or anything, they have to come in and get another approval. What I am talking about is the access thing and the wall between the 'LC' and the residential area."

KROUT "You cannot add walls in the platting requirements. You could have a wall as a Protective Overlay requirement. I guess if you did, we would want to know where you would intend for that wall to be located. The access is probably something that can be handled through replatting, if that is your intention."

HENTZEN "What I am really asking, Mr. Chair, is will we, with the people who live in that residential area, have an opportunity to, when they decide what they are going to put in there, that we can require that wall then? Do we have to do that today, or can you do that at platting time?"

KROUT "If you want to make the wall a requirement, because a wall is not a requirement in 'LC' zoning, you would have to make that now as part of the zoning approval."

WARREN "Could we not amend the motion to provide that a Protective Overlay be put into place requiring a wall where it abuts residential?"

KROUT "A six-foot masonry wall where it abuts residential?"

WARREN "Yeah."

KROUT "Does that include the area along Tyler Road where it abuts that plot that is still residential?"

WARREN "No. Except. I don't think you would want to wall that. Well, you could say to the north and to the west, except the lot adjacent to Tyler Road."

GAROFALO "It didn't appear to me that the applicant was very agreeable to leaving out that little triangle. I am saying that I wanted to ask Kim if that little triangle is left out is your client going to be satisfied or would not want the whole thing, or the rest of it 'LC' or whatever?"

EDGINGTON "I think at this point we will just accept..."

GAROFALO "Whatever we come up with?"

EDGINGTON "Right. And then at such point when we gain control of any more property, you will see us back here again."

GAROFALO "Okay. That answered my question."

OSBORNE-HOWES "That's ridiculous."

MCKAY "I have a question of staff. Marvin, are you absolutely opposed to trying to sit down with these people and work out something? It is an exercise in futility as far as you are concerned?"

KROUT "Yes."

MCKAY "Give me the reason why. I want to hear what he has to say, Mr. Warner, not what you have to say."

KROUT "I think we ought to move on."

WARNER "This is probably hypothetical, but this zoning change, what would it do to the value of the property he is trying to buy? Is it going to increase it or decrease it? Of these residences that are next to this?"

MCKAY "Increase it."

WARNER "You think it is going to increase it? Okay. I'm not sure I agree with that."

OSBORNE-HOWES "I just want to point out that even the applicant has said that before they do anything, after they acquire other property they will come back again. I really think that we would be making a mistake if we voted today for Light Commercial. I think it would be much better to deny it at this point. I don't know, haven't we talked enough?"

PLATT "I am really confused because we have the applicant talking about consolidating property and doing things in the future, and then very specifically, in rebuttal, the applicant's agent said 'please give us this zoning so we can go ahead with our development'. Something is going on here. Certainly I don't think we are properly looking at the way we set commercial zoning on a corner into a neighborhood in the way this is being considered. This is some kind of haphazard approach to something, but I don't know what it is. I just don't think I am ready to support commercial zoning at this point for that very funny configuration which abuts residential on the north and the west. I don't think we are protecting the neighborhood, I don't think we are considering how we should protect it, and I guess at this point, I would vote to deny."

CARRAHER "Why don't we test the waters?"

MOTION: That the question be called on the substitute motion.

CARRAHER moved, **MICHAELIS** seconded the motion, and it carried unanimously.

VOTE ON THE SUBSTITUTE MOTION: The motion failed with 7 votes in opposition (Osborne-Howes, Platt, Warner, Lopez, Garofalo, Barfield, and McKay) and 5 in favor (Johnson, Warren, Carraher, Michaelis and Hentzen).

GAROFALO "I might say that I would be more inclined to go along with the commercial, once we know what the situation was, similar to what Susan said. I am concerned about that little triangle there."

VOTE ON THE ORIGINAL MOTION: The motion ended in a moot vote with 6 votes in favor (Platt, Lopez, Osborne-Howes, Barfield, Warner and Garofalo), and 6 votes in opposition (Johnson, Michaelis, Warren, McKay, Hentzen and Carraher).

KROUT "The motion to deny fails. The motion to approve fails. There is a failure to recommend. Someone could try another motion."

MOTION: That the case be deferred for two weeks.

BARFIELD moved **CARRAHER** seconded the motion.

OSBORNE-HOWES "Why?"

BARFIELD "We aren't going to approve it and we're not going to deny it."

OSBORNE-HOWES "That's no reason."

MCKAY "The only thing to the motion is that you shouldn't put a time limit on it. The only reason I am saying that is that I agree with Mr. Krout; in two weeks they can't come up with a plan and I think they need to come up with a plan, they need to come up an overlay. They need to say we are willing to do this, this, this and this."

GAROFALO "That would help."

MCKAY "That is the only reason I mentioned the deferral to begin with and that is why I asked the question of Mr. Krout, regardless of whether they do it or not, it sounds like the logics are going to be hitting each other. I believe that is the proper way to go about doing it. Let them come back with a plan. We voted on two different things and neither one of them passed. Don't put a time limit on it."

WARREN "The plan being some kind of screening or...?"

MCKAY "I am not putting anything on it. I am just saying let's defer it and let them come up with a plan, work with the staff and come back with a recommendation and a plan. That is the whole key. They don't have a plan. Then that is where we come in. If they come in with another program with a plan and if they don't recommend it, then it is up to us to make a decision whether the plan is a good plan or not."

MICHAELIS "So then, even though it is Limited Industrial and a little different,...where does it say you have to have a plan to request a zoning change?"

KROUT "In the Comprehensive Plan. It says if you are doing commercial development into residential areas, that the development should be planned. It says it. Maybe you need to take it out if you disagree with that."

CARRAHER "I believe, and correct me if I am wrong, was that a friendly amendment you were proposing to Commissioner Barfield?"

MCKAY "All I was saying was to take the time limit off. That is all I am saying. You said two weeks and I said I don't think they can get done what needs to be done regardless."

BARFIELD "I agree. I wouldn't have any problem with that."

CARRAHER "And I concur, Mr. Chair."

OSBORNE-HOWES "I am a little concerned about having no time limit. I would feel much more comfortable if we said 6 month, 3 months, 30 days...Marvin, do you have a comment on that? I can't vote for it this way."

KROUT "Yes. It is a real administrative problem to have no time limit. If you are continuing the hearing, I assume you are, then we need to be able to notify people. Maybe it ought to be something no more than 3 months, with a re-notification to neighbors, so that they know that there is a plan."

BARFIELD "Let me ask a question. One of the facts that we are objecting to is that we don't know what is going to happen with Kellogg. My question is would that be any different in a month, two months, three months?"

HENTZEN "It won't be any different in three months. What I am concerned about is there is zoning all over this county for corners or other places that are zoned commercial, 'GC' and there is no plan. There wasn't a plan when it was presented. How could you market that piece of property without the proper zoning on it? How could you market that piece of property without the proper zoning?"

MCKAY "I do agree with Marvin that there should be a plan. I don't think the applicant has a plan. They come in with 4.8 acres of ground and want to get it zoned Light Commercial without a plan, without any protection to the neighborhood. I am saying to you, if they don't come back, and I don't care if you put a time limit on it for 3 months or 6 months or whatever it might be, if they don't come back with a plan, we have thrown the responsibility right back in their lap to work out with the staff. If staff says they don't recommend it, then it is up to us to say yes or no, just like we did today."

MICHAELIS "But it is a zoning question, and in order to go develop a plan, you have to have the zoning on a property in order to do that. The whole question is...."

MCKAY "Jerry, we are not marketing. We're zoning. Let's say in the next two weeks that they buy that corner. Would that make any difference in the whole thing?"

MICHAELIS "That is what I am saying. All we are doing is zoning. We are not planning."

KROUT "You said it, and it is on the record."

WARREN "Two things. I am going to make a statement. I think it is reasonable, in this case, where there is no intended use at this time, that they do some protection to the neighborhood around them in the way of screening and fencing. I think that is reasonable."

Second, I am going to make a motion that we call the question."

MCKAY "Did we ever determine the time length?"

BARFIELD "No, we did not."

GAROFALO "Let's do it for at least 3 months."

BARFIELD "I am basically in favor of 6 months."

JOHNSON "How about within 6 months."

KROUT "That is fine, but we just need to put a time limit on it. Six months with re-notification to the neighbors."

AMENDED MOTION: That the case be deferred for 6 months.

BARFIELD moved **CARRAHER** seconded the motion.

VOTE ON THE MOTION: The motion carried with 12 votes in favor. There was no opposition.

11. **DR 99-10** - Wireless Communication Master Plan and Associated Amendments to the Unified Zoning Code.

KROUT "Could we have a motion to defer the Wireless Master Plan for two weeks? We met with the industry a week ago Friday and agreed to about 5 or 6 more changes in the plan and the ordinance amendments and they are extensive enough that we want to put them in writing and have them in advance for you and for the industry to look at before you decide what you are going to do."

MOTION: That the item be deferred for two weeks.

JOHNSON moved, **MCKAY** seconded the motion, and it carried unanimously (12-0).

12. **Other Matters**

KROUT "Commissioners, you should have the County budget. In the C.I.P. section of it, I think it is labeled Capital Plan, and we would like for you to look at it before the next meeting. The County staff is going to come to you and ask you to find that those projects that are in the C.I.P. are consistent with the Comprehensive Plan. They will be prepared to brief you on any items you have current questions about. If you do have questions, try to get hold of me so I can prepare them in advance."

HENTZEN "I was at the County Commission meeting the other day when the Comprehensive Plan was presented. They talked, during that presentation, about appointing a task force to do some final things. They mentioned that the task force would be made up of 6 appointees, I think, from the City and 6 appointees from the County, and two from the MAPC. I thought at the time that the MAPC should probably pick the two and not have the Mayor or the County Manager picking them. My recommendation is that the MAPC select the two. If you want to do that, if you want to be the appointee, let the chairman know."

KROUT "I guess there are two ways to go about that, one is to let the Chair make the selection and the other is to have the Planning Commission vote on people that you would like to recommend."

GAROFALO "Has the City Council or the County Commission said anything to you about that procedure? About whether they wanted to make the appointments? Or did they just leave it?"

KROUT "They haven't said, but you could certainly say 'these are the people we want for it' and they could decide yes or no."

GAROFALO "So we could recommend two people."

KROUT "Right."

GAROFALO "Okay, that's fine. Is that what the consensus is, that the Planning Commission, as a whole, would select two people. Is that what you want to do? Okay, then, why don't we do it now? We could have nominations for two people to represent the Planning Commission."

OSBORNE-HOWES "I would like to nominate George Platt."

GAROFALO "George, you have been nominated. Is there a second to that?"

LOPEZ "I will second that."

JOHNSON "I nominate John McKay."

WARNER "I will second that."

MICHAELIS "I nominate Chris Carraher."

CARRAHER "I respectfully decline, but I appreciate it. I think the two current nominees provide a good balance representing the Commission, and feel that if certain things fell in the way, there would be a mis-balance."

GAROFALO "Is John here, or did he leave?"

JOHNSON "He is out of the room."

GAROFALO "Oh, that's why you nominated him. Okay."

MOTION: That the nominations cease.

MICHAELIS moved, **CARRAHER** seconded the motion.

VOTE ON THE MOTION: The motion carried with 12 votes in favor.

McKay returned to the meeting.

GAROFALO "You have been nominated to sit in on the task force that is going to deal with the Comprehensive Plan. You and George. Are you agreeable to that?"

MCKAY "Yeah, I will do it."

GAROFALO "There will be 23 people, two from the Planning Commission. We will vote on the nominations now."

VOTE: The nominations carried unanimously 12-0.

GAROFALO "Is there anything else?"

CARRAHER "Yes, I have two points that I would like to address. First, of all, as you know, the Comp Plan has gone through the official bodies. I just want to congratulate you all as my colleagues on a job well done. Regardless of which

way you voted, I know we have taken a beating in the press at times, and contrary to that opinion, I feel that you all, in regards to this, have held yourselves up well and very professionally and represented both the City and the County well.

My second point isn't as positive, but it is something that I feel, given what has happened today, needs to be addressed. That is on point of order. Just order per se in meetings. I will just try to make this quick. I have been able, given my limited amount of years, to serve in a number of groups, sometimes as the Chair, sometimes as not. I guess my point is that the behavior I saw not too long ago, I haven't seen such outbursts since I presided over the Student Government in college. I can understand such behavior coming from 18 to 21 year olds, but it is hard for me to swallow it coming from people, and you know who you are, who are supposed to be professionals. It is, at the very least, disconcerting, the outburst that took place. We didn't represent ourselves well to the audience, and I am just glad that we didn't have a larger attendance as we have had in the past. I would hope that everybody would keep that in mind in future meetings. Thank you."

OSBORNE-HOWES "I would also like to say that I think we, as Commissioners, should be given the floor before we start talking. During the midst of that outburst, I wasn't sure that people who were speaking necessarily had the floor. I really think that we need to pay a little more attention to that."

BARFIELD "And I am going to say what I have been wanting to say. I wasn't here, but if we are going to talk about that, we also should talk about what I would call the blatant disrespect for the policies and procedures by one City Council member three meetings ago."

I have witnessed myself speakers at the podium, and it is my understanding that if there are questions for speakers at the podium, they are supposed to come through the Chairman or through this body. That did not happen. We saw almost an interrogation of a speaker at the podium from the floor. That has not been allowed previously, and I hope it won't be allowed again.

Secondly, we saw, on that occasion, after the person's speaking time was up, they were given additional time. I have witnessed, on several occasions, public members who ask for additional time and they have been denied. That happened as recently as today. I witnessed that, and I was going to speak to it at the next meeting, but I was absent at that meeting. I think we should hold everybody to the same standards. There should be respect for the policies and procedures that are read every meeting to the members of the public. I don't think anybody should be treated differently."

GAROFALO "Did we deny somebody time today?"

KROUT "Yes."

OSBORNE-HOWES "Who?"

BARFIELD "There was one gentleman up there...and.."

GAROFALO "Well, he had already spoken."

BARFIELD "But I have just seen several times people who have already spoken and used up their time and they sit down, and somebody makes a couple comments and ask to speak, and we say no. This particular individual was allowed to on two or three occasions."

GAROFALO "Okay, we will try to do a better job of controlling all of this. But when there is a sudden outburst, it is kind of hard to stop it, you know, just immediately. I will use the gavel. Are there any other comments or any other matters to come before this body?"

MOTION: That the Metropolitan Area Planning Commission adjourn.

CARRAHER moved, **GAROFALO** seconded the motion, and it carried unanimously.

The meeting formally adjourned at 5:07 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2000.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)